# ADVISORY COMMITTEE
# ON
# BANKRUPTCY RULES

**March 30, 2023**

**DISCUSSION AGENDA**
**Meeting of the Advisory Committee on Bankruptcy Rules**
**March 30, 2023 | West Palm Beach, FL**

1. Greetings, Introductions, Service Acknowledgments (Judge Connelly)

   Greetings to new members Judge Daniel A. Bress, (9th Cir.), Judge Michelle M. Harner, (Bankr. D. Md.) and Professor Scott F. Norberg, Florida International University, Law. Acknowledgment of service of Judge Bernice B. Donald, retired, and Tara Twomey, recently appointed Director of the Office of the United States Trustee Program.

   **Tab 1** Committee Roster. .....7
   Subcommittee Liaisons. .....12
   Chart Tracking Proposed Rules Amendments. .....16
   Pending Legislation Chart.....22

2. Approval of minutes of September 15, 2022, meeting (Judge Connelly)

   **Tab 2** Draft minutes. .....26

3. Oral reports on meetings of other committees:

   A. Standing Committee – January 4, 2023 (Judge Connelly, Professors Gibson and Bartell)

   **Tab 3A1** Draft minutes of the Standing Committee meeting. .....44

   **Tab 3A2** March 2023 Report of the Standing Committee to the Judicial Conference (appendices omitted). .....75

   B. Advisory Committee on Appellate Rules – October 13, 2022, and March 29, 2023 (Judge Bress)

   C. Advisory Committee on Civil Rules – October 12, 2022, and March 28, 2023 (Judge McEwen)

   D. Bankruptcy Committee – December 8-9, 2022 (Judge Isicoff)

4. Report of the Consumer Subcommittee (Judge Harner)

   A. Recommendation to republish proposed amendments to Bankruptcy Rule 3002.1 (with additional changes) in light of 2021 public comments.

   **Tab 4A** March 2, 2023, memo by Professor Gibson. .....85
   Attachment 1 – Rule 3002.1 showing changes from draft approved at fall meeting.....87
   Attachment 2 – Rule 3002.1 as recommended for republication.....103

B. Consider proposed amendment to Rule 5009(b) (Suggestions 22-BK-D and 23-BK-K).



C. Consider proposed amendment to Rule 1007(h) concerning reporting of property acquired postpetition (Suggestion 22-BK-H).



D. Consider recommendation for final approval of proposed amendments to Rule 7001 (Types of Adversary Proceedings)



E. Consider recommendation for final approval of amended Rule 1007(b)(7) (Lists, Schedules, Statements, and Other Documents; Time Limits), eliminating the need for Official Form 423, and conforming amendments to Rules 1007(c)(4), 4004(c)(1)(H), 4004(c)(4), 5009(b), 9006(b)(3), and 9006(c)(2) (Suggestion 21-BK-G)



5. Report of the Forms Subcommittee (Judge Kahn)

A. Recommendation to republish new Official Forms related to proposed Rule 3002.1: (Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R) (Professor Gibson)



B. Consider recommendation for final approval of amendment to Official Form 410A, Part 3 (Suggestion 22-BK-A).



6. Report of the Technology Privacy and Public Access Subcommittee (Judge Oetken)

A. Consider suggestion 22-BK-I to require redaction of the *entire* social-security number from public court filings, including the last four digits of the number, and

recommendation of no action regarding suggestion 23-BK-A to stop *sending* the debtor's social-security number to creditors.

**Tab 6A** February 25, 2023, memo by Professor Bartell.....191

7. Report of the Appeals and Cross Border Insolvency Subcommittee (Judge Bress)

   A. Consider recommendation for final approval of new Rule 8023.1 (Suggestion 21-BK-O)

   **Tab 7A** February 22, 2023, memo with rule and committee note by Professor Bartell. .....203

8. Report of the Restyling Subcommittee (Judge Krieger)

   A. Recommendation for final approval of the Restyled Bankruptcy Rules

   **Tab 8A1** February 28, 2023, memo by Professor Bartell addressing comments and recommendations concerning the 7000-9000 series of restyled rules. .....207
   The 7000-9000 series of restyled rules.....211

   **Tab 8A2** February 28, 2023, memo by Professor Bartell concerning top-to-bottom review of the 1000-6000 series of restyled rules. .....471
   The 1000-6000 series of restyled rules.....472

9. Update on the work of the Pro-se-electronic-filing working group (Professor Struve).

   **Tab 9** March 3, 2023, memo by Professor Struve. .....712

10. New business

    Assignment of Suggestion 23-BK-C from the National Bankruptcy Conference proposing rule amendments addressing remote testimony in contested matters.

11. Future meetings: The next meeting will be on September 14, 2023, in Washington, DC.

12. Adjourn.

**CONSENT AGENDA**
**Meeting of the Advisory Committee on Bankruptcy Rules**
**March 30, 2023 | West Palm Beach, FL**

## Proposed Consent Agenda

The Chair and Reporters have proposed the following items for study and consideration prior to the Advisory Committee's meeting. **Absent any objection, all recommendations will be approved by acclamation at the meeting.** Any of these matters may be moved to the Discussion Agenda if a member or liaison feels that discussion or debate is required prior to Committee action. Requests to move an item to the Discussion Agenda must be brought to attention of the Chair by noon, Eastern Time, on **Thursday, March 23, 2023.**

1. Report of the Technology Privacy and Public Access Subcommittee.

   A. Recommendation to defer any action regarding suggestion 22-BK-J to adopt national rules that permit debtors to sign petitions and schedules electronically and without retention by their attorneys of the original documents with wet signatures.

      **Tab C1A** March 2, 2023, memo by Professor Gibson. .....724

# TAB 1

# RULES COMMITTEES — CHAIRS AND REPORTERS

## Committee on Rules of Practice and Procedure
## (Standing Committee)

| Chair | Reporter |
|---|---|
| Honorable John D. Bates<br>United States District Court<br>Washington, DC | Professor Catherine T. Struve<br>University of Pennsylvania Law School<br>Philadelphia, PA |

### Secretary to the Standing Committee

H. Thomas Byron III, Esq.
Administrative Office of the U.S. Courts
Office of the General Counsel – Rules Committee Staff
Washington, DC

## Advisory Committee on Appellate Rules

| Chair | Reporter |
|---|---|
| Honorable Jay S. Bybee<br>United States Court of Appeals<br>Las Vegas, NV | Professor Edward Hartnett<br>Seton Hall University School of Law<br>Newark, NJ |

## Advisory Committee on Bankruptcy Rules

| Chair | Reporter |
|---|---|
| Honorable Rebecca B. Connelly<br>United States Bankruptcy Court<br>Harrisonburg, VA | Professor S. Elizabeth Gibson<br>University of North Carolina at Chapel Hill<br>Chapel Hill, NC |

### Associate Reporter

Professor Laura B. Bartell
Wayne State University Law School
Detroit, MI

## Advisory Committee on Civil Rules

| Chair | Reporter |
|---|---|
| Honorable Robin L. Rosenberg<br>United States District Court<br>West Palm Beach, FL | Professor Richard L. Marcus<br>University of California<br>Hastings College of the Law<br>San Francisco, CA |
| | **Associate Reporter** |
| | Professor Andrew Bradt<br>University of California, Berkeley<br>Berkeley, CA |

## Advisory Committee on Criminal Rules

| Chair | Reporter |
|---|---|
| Honorable James C. Dever III<br>United States District Court<br>Raleigh, NC | Professor Sara Sun Beale<br>Duke University School of Law<br>Durham, NC |
| | **Associate Reporter** |
| | Professor Nancy J. King<br>Vanderbilt University Law School<br>Nashville, TN |

## Advisory Committee on Evidence Rules

| Chair | Reporter |
|---|---|
| Honorable Patrick J. Schiltz<br>United States District Court<br>Minneapolis, MN | Professor Daniel J. Capra<br>Fordham University School of Law<br>New York, NY |

# ADVISORY COMMITTEE ON BANKRUPTCY RULES

| Chair | Reporter |
|---|---|
| Honorable Rebecca B. Connelly<br>United States Bankruptcy Court<br>Harrisonburg, VA | Professor S. Elizabeth Gibson<br>University of North Carolina at Chapel Hill<br>Chapel Hill, NC |
| | **Associate Reporter** |
| | Professor Laura B. Bartell<br>Wayne State University Law School<br>Detroit, MI |

## Members

| | |
|---|---|
| Honorable Daniel A. Bress<br>United States Court of Appeals<br>San Francisco, CA | Jenny L. Doling, Esq.<br>J. Doling Law PC<br>Palm Desert, CA |
| Honorable Michelle M. Harner<br>United States Bankruptcy Court<br>Baltimore, MD | Honorable Jeffery P. Hopkins<br>United States District Court<br>Cincinnati, OH |
| Honorable David A. Hubbert<br>Deputy Assistant Attorney General (ex officio)<br>United States Department of Justice<br>Washington, DC | Honorable Ben Kahn<br>United States Bankruptcy Court<br>Greensboro, NC |
| Honorable Marcia S. Krieger<br>United States District Court<br>Denver, CO | Honorable Catherine P. McEwen<br>United States Bankruptcy Court<br>Tampa, FL |
| Debra L. Miller, Esq.<br>Chapter 13 Bankruptcy Trustee<br>South Bend, IN | Professor Scott F. Norberg<br>Florida International University<br>College of Law<br>Miami, FL |
| Honorable J. Paul Oetken<br>United States District Court<br>New York, NY | Jeremy L. Retherford, Esq.<br>Balch & Bingham LLP<br>Birmingham, AL |
| Damian S. Schaible, Esq.<br>Davis Polk & Wardwell LLP<br>New York, NY | Honorable George H. Wu<br>United States District Court<br>Los Angeles, CA |

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(*Committee on the Administration of the Bankruptcy System*)
United States Bankruptcy Court
Miami, FL

Honorable William J. Kayatta, Jr.
(*Standing*)
United States Court of Appeals
Portland, ME

## Clerk of Court Representative

Kenneth S. Gardner
United States Bankruptcy Court
Denver, CO

**Advisory Committee on Bankruptcy Rules**

| Members | Position | District/Circuit | Start Date | End Date |
|---|---|---|---|---|
| Rebecca B. Connelly<br>Chair | B | Virginia (Western) | Member: 2021<br>Chair: 2022 | ----<br>2025 |
| Daniel A. Bress | C | Ninth Circuit | 2022 | 2025 |
| Jenny L. Doling | ESQ | California | 2023 | 2025 |
| Michelle M. Harner | B | Maryland | 2022 | 2025 |
| Jeffery P. Hopkins | D | Ohio | 2023 | 2025 |
| David A. Hubbert* | DOJ | Washington, DC | ---- | Open |
| Ben Kahn | B | North Carolina (Middle) | 2021 | 2023 |
| Marcia S. Krieger | D | Colorado | 2017 | 2023 |
| Catherine P. McEwen | B | Florida (Middle) | 2021 | 2023 |
| Debra Miller | ESQ | Indiana | 2017 | 2023 |
| Scott F. Norberg | ACAD | Florida | 2022 | 2025 |
| J. Paul Oetken | D | New York (Southern) | 2019 | 2025 |
| Jeremy L. Retherford | ESQ | Alabama | 2018 | 2024 |
| Damian S. Schaible | ESQ | New York | 2021 | 2023 |
| George H. Wu | D | California (Central) | 2018 | 2024 |
| S. Elizabeth Gibson<br>Reporter | ACAD | North Carolina | 2008 | Open |
| Laura B. Bartell<br>Associate Reporter | ACAD | Michigan | 2017 | 2024 |

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**ADVISORY COMMITTEE ON BANKRUPTCY RULES**
**SUBCOMMITTEES**
**(2022–2023)**

| | |
|---|---|
| **Appeals and Cross Border Insolvency Subcommittee**<br>Judge Daniel A. Bress, Chair<br>Judge Catherine Peek McEwen<br>Damian S. Schaible, Esq.<br>Ramona D. Elliott, Esq., EOUST liaison<br>David Hubbert, Esq., ex officio<br>Carly Giffin, Esq., FJC | **Business Subcommittee**<br>Judge Catherine Peek McEwen, Chair<br>Judge Daniel A. Bress<br>Judge Benjamin Kahn<br>Judge Marcia S. Krieger<br>Judge J. Paul Oetken<br>Damian S. Schaible, Esq.<br>Professor Scott Norberg<br>Ramona D. Elliott, Esq., EOUST liaison<br>Kenneth S. Gardner, clerk representative<br>Carly Giffin, Esq., FJC |
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| **Technology Privacy and Public Access Subcommittee**<br>Judge J. Paul Oetken, Chair<br>Judge Michelle M. Harner<br>Judge Benjamin Kahn<br>Professor Scott Norberg<br>Ramona D. Elliott, Esq., EOUST liaison<br>Carly Giffin, Esq., FJC | |

## RULES COMMITTEE LIAISON MEMBERS

| | |
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| Liaison for the Advisory Committee on Bankruptcy Rules | Hon. William J. Kayatta, Jr.<br>*(Standing)* |
| Liaisons for the Advisory Committee on Civil Rules | Hon. D. Brooks Smith<br>(*Standing*)<br><br>Hon. Catherine P. McEwen<br>*(Bankruptcy)* |
| Liaison for the Advisory Committee on Criminal Rules | TBD<br>(*Standing*) |
| Liaisons for the Advisory Committee on Evidence Rules | Hon. Robert J. Conrad, Jr.<br>(*Criminal*)<br><br>Hon. Carolyn B. Kuhl<br>*(Standing)*<br><br>Hon. M. Hannah Lauck<br>(*Civil*) |

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**Effective December 1, 2022**

Current Step in REA Process:

- Effective December 1, 2022

REA History:

- Adopted by Supreme Court and transmitted to Congress (Apr 2022)
- Transmitted to Supreme Court (Oct 2021)
- Approved by Judicial Conference (Sept 2021 unless otherwise noted)
- Published for public comment (Aug 2020 – Feb 2021 unless otherwise noted)
- Approved by Standing Committee (June 2021 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| AP 25 | The amendment to Rule 25 extends the privacy protections afforded in Social Security benefit cases to Railroad Retirement Act benefit cases. | |
| AP 42 | The amendment to Rule 42 clarifies the distinction between situations where dismissal is mandated by stipulation of the parties and other situations. (These proposed amendments were published Aug 2019 – Feb 2020). | BK 8023 |
| BK 3002 | The amendment allows an extension of time to file proofs of claim for both domestic and foreign creditors if "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim." | |
| BK 5005 | The changes allow papers to be transmitted to the U.S. trustee by electronic means rather than by mail, and would eliminate the requirement that the filed statement evidencing transmittal be verified. | |
| BK 7004 | The amendments add a new Rule 7004(*i*) clarifying that service can be made under Rule 7004(b)(3) or Rule 7004(h) by position or title rather than specific name and, if the recipient is named, that the name need not be correct if service is made to the proper address and position or title. | |
| BK 8023 | The amendments conform the rule to pending amendments to Appellate Rule 42(b) that would make dismissal of an appeal mandatory upon agreement by the parties. | AP 42(b) |
| SBRA Rules (BK 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, 3017.2 (new), 3018, 3019) | The SBRA Rules make necessary rule changes in response to the Small Business Reorganization Act of 2019. The SBRA Rules are based on Interim Bankruptcy Rules adopted by the courts as local rules in February 2020 in order to implement the SBRA which went into effect February 19, 2020. | |
| Official Form 101 | Updates are made to lines 2 and 4 of the form to clarify how the debtor should report the names of related separate legal entities that are not filing the petition. | |

**Effective December 1, 2022**

Current Step in REA Process:

- Effective December 1, 2022

REA History:

- Adopted by Supreme Court and transmitted to Congress (Apr 2022)
- Transmitted to Supreme Court (Oct 2021)
- Approved by Judicial Conference (Sept 2021 unless otherwise noted)
- Published for public comment (Aug 2020 – Feb 2021 unless otherwise noted)
- Approved by Standing Committee (June 2021 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| Official Forms 309E1 and 309E2 | Form 309E1, line 7 and Form 309E2, line 8, are amended to clarify which deadline applies for filing complaints to deny the debtor a discharge and which applies for filing complaints seeking to except a particular debt from discharge. | |
| CV 7.1 | An amendment to subdivision (a) was published for public comment in Aug 2019 – Feb 2020. As a result of comments received during the public comment period, a technical conforming amendment was made to subdivision (b). The conforming amendment to subdivision (b) was not published for public comment. The amendments to (a) and (b) were approved by the Standing Committee in Jan 2021, and approved by the Judicial Conference in Mar 2021.<br><br>The amendment to Rule 7.1(a)(1) requires the filing of a disclosure statement by a nongovernmental corporation that seeks to intervene. This change conforms the rule to the recent amendments to FRAP 26.1 (effective Dec 2019) and Bankruptcy Rule 8012 (effective Dec 2020). The amendment to Rule 7.1(a)(2) creates a new disclosure aimed at facilitating the early determination of whether diversity jurisdiction exists under 28 U.S.C. § 1332(a), or whether complete diversity is defeated by the citizenship of a nonparty individual or entity because that citizenship is attributed to a party. | AP 26.1 and BK 8012 |
| CV Supplemental Rules for Social Security Review Actions Under 42 U.S.C. § 405(g) | Set of uniform procedural rules for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). | |
| CR 16 | Amendment addresses the lack of timing and specificity in the current rule with regard to expert witness disclosures, while maintaining reciprocal structure of the current rule. | |

**Effective (no earlier than) December 1, 2023**

Current Step in REA Process:

- Transmitted to Supreme Court (Oct 2022)

REA History:

- Published for public comment (Aug 2021 – Feb 2022 unless otherwise noted)
- Approved by Standing Committee (June 2022 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| AP 2 | Proposed amendment developed in response to § 15002(b)(6) of the CARES Act, which directs that the Judicial Conference and the Supreme Court consider rules amendments to address emergency measures that may be taken by the courts when the President declares a national emergency. | BK 9038, CV 87, and CR 62 |
| AP 4 | The proposed amendment is designed to make Rule 4 operate with Emergency Civil Rule 6(b)(2) if that rule is ever in effect by adding a reference to Civil Rule 59 in subdivision (a)(4)(A)(vi) of Appellate Rule 4. | CV 87 (Emergency CV 6(b)(2)) |
| AP 26 | The technical proposed amendment adds "Juneteenth National Independence Day" to the list of legal holidays. | AP 45, BK 9006, CV 6, CR 45, and CR 56 |
| AP 45 | The technical proposed amendment adds "Juneteenth National Independence Day" to the list of legal holidays. | AP 26, BK 9006, CV 6, CR 45, and CR 56 |
| BK 3011 | Proposed new subdivision (b) would require courts to provide searchable access to unclaimed funds on local court websites. | |
| BK 8003 and Official Form 417A | Proposed rule and form amendments are designed to conform to amendments to FRAP 3(c) clarifying that the designation of a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment, or appealable order or degree. | AP 3 |
| BK 9038 (New) | Proposed new rule developed in response to § 15002(b)(6) of the CARES Act, which directs that the Judicial Conference and the Supreme Court consider rules amendments to address emergency measures that may be taken by the courts when the President declares a national emergency. | AP 2, CV 87, and CR 62 |
| BK 9006(a)(6)(A) | Technical amendment approved by Advisory Committee without publication add Juneteenth National Independence Day to the list of legal holidays. | AP 26, AP 45, CV 6, CR 45, and CR 56 |
| CV 6 | The technical proposed amendment adds "Juneteenth National Independence Day" to the list of legal holidays. | AP 26, AP 45, BR 9006, CR 45, and CR 56 |
| CV 15 | The proposed amendment to Rule 15(a)(1) is intended to remove the possibility for a literal reading of the existing rule to create an unintended gap. A literal reading of "A party may amend its pleading once as a matter of course within . . . 21 days after service of a responsive pleading or [pre-answer motion]" would suggest that the Rule 15(a)(1)(B) period does not commence until the service of the responsive pleading or pre-answer motion – with the unintended result that there could be a gap period (beginning on the 22nd day after service of the pleading and extending to service of the responsive pleading or pre-answer | |

**Effective (no earlier than) December 1, 2023**

Current Step in REA Process:

- Transmitted to Supreme Court (Oct 2022)

REA History:

- Published for public comment (Aug 2021 – Feb 2022 unless otherwise noted)
- Approved by Standing Committee (June 2022 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| | motion) within which amendment as of right is not permitted. The proposed amendment would preclude this interpretation by replacing the word "within" with "no later than." | |
| CV 72 | The proposed amendment would replace the requirement that the magistrate judge's findings and recommendations be mailed to the parties with a requirement that a copy be served on the parties as provided in Rule 5(b). | |
| CV 87 (New) | Proposed new rule developed in response to § 15002(b)(6) of the CARES Act, which directs that the Judicial Conference and the Supreme Court consider rules amendments to address emergency measures that may be taken by the courts when the President declares a national emergency. | AP 2, BK 9038, and CR 62 |
| CR 45 | The technical proposed amendment adds "Juneteenth National Independence Day" to the list of legal holidays. | AP 26, AP 45, BR 9006, CV 6, and CR 56 |
| CR 56 | The technical proposed amendment adds "Juneteenth National Independence Day" to the list of legal holidays. | AP 26, AP 45, BR 9006, CV 6, and CR 45 |
| CR 62 (New) | Proposed new rule developed in response to § 15002(b)(6) of the CARES Act, which directs that the Judicial Conference and the Supreme Court consider rules amendments to address emergency measures that may be taken by the courts when the President declares a national emergency. | AP 2, BK 9038, and CV 87 |
| EV 106 | The proposed amendment would allow a completing statement to be admissible over a hearsay objection and cover unrecorded oral statements. | |
| EV 615 | The proposed amendment limits an exclusion order to the exclusion of witnesses from the courtroom. A new subdivision would provide that the court has discretion to issue further orders to "(1) prohibit disclosure of trial testimony to witnesses who are excluded from the courtroom; and (2) prohibit excluded witnesses from accessing trial testimony." Finally, the proposed amendment clarifies that the existing provision that allows an entity-party to designate "an officer or employee" to be exempt from exclusion is limited to one officer or employee. | |
| EV 702 | The proposed amendment would amend Rule 702(d) to require the court to find that "the expert's opinion reflects a reliable application of the principles and methods to the facts of the case." In addition, the proposed amendment would explicitly add the preponderance of the evidence standard to Rule 702(b)–(d). | |

**Effective (no earlier than) December 1, 2024**

Current Step in REA Process:

- Published for public comment (Aug 2022 – Feb 2023 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (Jan and June 2022 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| AP 32 | Conforming proposed amendment to subdivision (g) to reflect the proposed consolidation of Rules 35 and 40. | AP 35, 40 |
| AP 35 | The proposed amendment would transfer the contents of the rule to Rule 40 to consolidate the rules for panel rehearings and rehearings en banc together in a single rule. | AP 40 |
| AP 40 | The proposed amendments address panel rehearings and rehearings en banc together in a single rule, consolidating what had been separate provisions in Rule 35 (hearing and rehearing en banc) and Rule 40 (panel rehearing). The contents of Rule 35 would be transferred to Rule 40, which is expanded to address both panel rehearing and en banc determination. | AP 35 |
| Appendix: Length Limits Stated in the Federal Rules of Appellate Procedure | Conforming proposed amendments would reflect the proposed consolidation of Rules 35 and 40 and specify that the limits apply to a petition for initial hearing en banc and any response, if requested by the court. | AP 35, 40 |
| BK 1007(b)(7) and related amendments | The proposed amendment to Rule 1007(b)(7) would require a debtor to submit the course certificate from the debtor education requirement in the Bankruptcy Code. Conforming amendments would be made to the following rules by replacing the word "statement" with "certificate": Rules 1007(c)(4), 4004(c)(1)(H), 4004(c)(4), 5009(b), 9006(b)(3) and 9006(c)(2). | |
| BK 7001 | The proposed amendment would exempt from the list of adversary proceedings in Rule 7001, "a proceeding by an individual debtor to recover tangible personal property under § 542(a)." | |
| BK 8023.1 (new) | This would be a new rule on the substitution of parties modeled on FRAP 43. Neither FRAP 43 nor Fed. R. Civ. P. 25 is applicable to parties in bankruptcy appeals to the district court or bankruptcy appellate panel, and this new rule is intended to fill that gap. | AP 43 |
| BK Restyled Rules | The third and final set of current Bankruptcy Rules, consisting of Parts VII-IX, are restyled to provide greater clarity, consistency, and conciseness without changing practice and procedure. The first set of restyled rules (Parts I & II) were published in 2020, and the second set (Parts III-VI) were published in 2021. The full set of restyled rules is expected to go into effect no earlier than December 1, 2024. | |
| BK Form 410A | The proposed amendments are to Part 3 (Arrearage as of Date of the Petition) of Official Form 410A and would replace the first line (which currently asks for "Principal & Interest") with two lines, one for "Principal" and one for "Interest." | |

**Effective (no earlier than) December 1, 2024**

Current Step in REA Process:

- Published for public comment (Aug 2022 – Feb 2023 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (Jan and June 2022 unless otherwise noted)

| Rule | Summary of Proposal | Related or Coordinated Amendments |
|---|---|---|
| | The amendments would put the burden on the claim holder to identify the elements of its claim. | |
| CV 12 | The proposed amendment would clarify that a federal statute setting a different time should govern as to the entire rule, not just to subdivision (a). | |
| EV 611(d) | The proposed new subdivision (d) would provide standards for the use of illustrative aids. | EV 1006 |
| EV 613 | The proposed amendment would require that, prior to the introduction of extrinsic evidence of a witness's prior inconsistent statement, the witness receive an opportunity to explain or deny the statement. | |
| EV 801 | The proposed amendment to paragraph (d)(2) would provide that when a party stands in the shoes of a declarant or declarant's principal, hearsay statements made by the declarant or declarant's principal are admissible against the party. | |
| EV 804 | The proposed amendment to subparagraph (b)(3)(B) would provide that when assessing whether a statement is supported by corroborating circumstances that clearly indicate its trustworthiness, the court must consider the totality of the circumstances and evidence, if any, corroborating the statement. | |
| EV 1006 | The proposed changes would permit a properly supported summary to be admitted into evidence whether or not the underlying voluminous materials have been admitted. The proposed changes would also clarify that illustrative aids not admitted under Rule 1006 are governed by proposed new subdivision (d) of Rule 611. | EV 611 |

**Legislation That Directly or Effectively Amends the Federal Rules**
**118th Congress**
**(January 3, 2023–January 3, 2025)**

(Ordered by most recent legislative action; bills with more recent actions first.)

| Name | Sponsors & Cosponsors | Affected Rules | Text, Summary, and Committee Report | Legislative Actions Taken |
|---|---|---|---|---|
| **Write the Laws Act** | **S. 329**<br>*Sponsor:*<br>Paul (R-KY) | All | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/s329/BILLS-118s329is.pdf<br><br>**Summary:**<br>Would prohibit "delegation of legislative powers" to any entity other than Congress. Definition of "delegation of legislative powers" could be construed to extend to the Rules Enabling Act. Would not nullify previously enacted rules, but anyone aggrieved by a new rule could bring action seeking relief from its application. | • 02/09/2023: Introduced in Senate; referred to Homeland Security & Government Affairs Committee |
| **Supreme Court Ethics, Recusal, and Transparency Act of 2023** | **S. 359**<br>*Sponsor:*<br>Whitehouse (D-RI)<br><br>*Cosponsors:*<br>13 Democratic or Democratic-caucusing cosponsors | AP, CV, CR | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/s359/BILLS-118s359is.pdf<br><br>**Summary:**<br>Requires rulemaking (through Rules Enabling Act process) of gifts, income, or reimbursements to justices from parties, amici, and their affiliates, counsel, officers, directors, and employees, as well as lobbying contracts and expenditures of substantial funds by these entities in support of justices' nomination, confirmation, or appointment.<br><br>Requires expedited rulemaking (through Rules Enabling Act process) to allow court to prohibit or strike amicus brief resulting in disqualification of justice, judge, or magistrate judge. | • 02/09/2023: Introduced in Senate; referred to Judiciary Committee |
| **Relating to a National Emergency Declared by the President on March 13, 2020** | **H. J. Res. 7**<br>*Sponsor:*<br>Gosar (R-AZ)<br><br>*Cosponsors:*<br>68 Republican cosponsors | CR | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hjres7/BILLS-118hjres7rfs.pdf<br><br>**Summary:**<br>Terminates the national emergency declared March 13, 2020, by President Trump. Would terminate authority under CARES Act to hold certain criminal proceedings by videoconference or teleconference. | • 02/02/2023: Received in Senate; referred to Finance Committee<br>• 02/01/2023: Passed House (229–197)<br>• 01/09/2023: Introduced in House |

| Name | Sponsors & Cosponsors | Affected Rules | Text, Summary, and Committee Report | Legislative Actions Taken |
|---|---|---|---|---|
| **Federal Police Camera and Accountability Act** | **H.R. 843**<br>*Sponsor:*<br>Norton (D-DC)<br><br>*Cosponsors:*<br>Beyer (D-VA)<br>Torres (D-NY) | EV | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr843/BILLS-118hr843ih.pdf<br><br>**Summary:**<br>Among other things, bars use of certain body-cam footage as evidence after 6 months if retained solely for training purposes; creates evidentiary presumption in favor of criminal defendants and civil plaintiffs against the government if recording or retention requirements not followed; bars use of federal body-cam footage from use as evidence if taken in violation of act or other law. | • 02/06/2023: Introduced in House; referred to Judiciary Committee |
| **Restoring Judicial Separation of Powers Act** | **H.R. 642**<br>*Sponsor:*<br>Casten (D-IL)<br><br>*Cosponsor:*<br>Blumenauer (D-OR) | AP | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr642/BILLS-118hr642ih.pdf<br><br>**Summary:**<br>Would give the D.C. Circuit certiorari jurisdiction over cases in the court of appeals and direct appellate jurisdiction over three-district-judge cases. A D.C. Circuit case "in which the United States or a Federal agency is a party" and cases "concerning constitutional interpretation, statutory interpretation of Federal law, or the function or actions of an Executive order" would be assigned to a multicircuit panel of 13 circuit judges, of which a 70% supermajority would need to affirm a decision invalidating an act of Congress. Would likely require new rulemaking for the panel and its interaction with the D.C. Circuit and new appeals structure. | • 01/31/2023: Introduced in House; referred to Judiciary Committee |
| **Protecting Individuals with Down Syndrome Act** | **S. 18**<br>*Sponsor:*<br>Daines (R-MT)<br><br>*Cosponsors:*<br>24 Republican cosponsors | CV 5.2; BK 9037; CR 49.1 | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/s18/BILLS-118s18is.pdf<br><br>**Summary:**<br>Would require use of pseudonym for and redaction or sealing of filings identifying women upon whom certain abortions are performed. | • 01/23/2023: Introduced in Senate; referred to Judiciary Committee |
| **Lunar New Year Day Act** | **H.R. 430**<br>*Sponsor:*<br>Meng (D-NY)<br><br>*Cosponsors:*<br>57 Democratic cosponsors | AP 26, 45; BK 9006; CV 6; CR 45, 56 | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr430/BILLS-118hr430ih.pdf<br><br>**Summary:**<br>Would make Lunar New Year Day a federal holiday. | • 01/20/2023: Introduced in House; referred to Oversight & Accountability Committee |

| Name | Sponsors & Cosponsors | Affected Rules | Text, Summary, and Committee Report | Legislative Actions Taken |
|---|---|---|---|---|
| **Back the Blue Act of 2023** | **H.R. 355**<br>*Sponsor:*<br>Bacon (R-NE)<br><br>*Cosponsors:*<br>17 Republican cosponsors | § 2254 Rule 11 | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr355/BILLS-118hr355ih.pdf<br><br>**Summary:**<br>Would amend Rule 11 of the Rules Governing Section 2254 Cases to bar application of Civil Rule 60(b)(6) in proceedings under 28 U.S.C. § 2254(j). | • 01/13/2023: Introduced in House; referred to Judiciary Committee |
| **Rosa Parks Day Act** | **H.R. 308**<br>*Sponsor:*<br>Sewell (D-AL)<br><br>*Cosponsors:*<br>31 Democratic cosponsors | AP 26, 45; BK 9006; CV 6; CR 45, 56 | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr308/BILLS-118hr308ih.pdf<br><br>**Summary:**<br>Would make Rosa Parks Day a federal holiday. | • 01/12/2023: Introduced in House; referred to Oversight & Accountability Committee |
| **Fourth Amendment Restoration Act** | **H.R. 237**<br>*Sponsor:*<br>Biggs (R-AZ) | CR 41; EV | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr237/BILLS-118hr237ih.pdf<br><br>**Summary:**<br>Would require warrant under Crim. Rule 41 to electronically surveil U.S. citizen, search premises or property exclusively owned or controlled by a U.S. citizen, use of pen register or trap-and-trace device against U.S. citizen, production of tangible things about U.S. citizen to obtain foreign intelligence information, or to target U.S. citizen for acquiring foreign intelligence information. Would require amendment of 41(c) to add these actions as actions for which warrant may issue.<br><br>Would bar use of information about U.S. citizen collected under E.O. 12333 in any criminal, civil, or administrative hearing or investigation, as well as information acquired about a U.S. citizen during surveillance of non-U.S. citizen. | • 01/10/2023: Introduced in House; referred to Judiciary and Intelligence Committees |
| **Limiting Emergency Powers Act of 2023** | **H.R. 121**<br>*Sponsor:*<br>Biggs (R-AZ) | CR | **Most Recent Bill Text:**<br>https://www.congress.gov/118/bills/hr121/BILLS-118hr121ih.pdf<br><br>**Summary:**<br>Would limit emergency declarations to 30 days unless affirmed by act of Congress. Current COVID-19 emergency would end no later than 2 years after enactment date; would terminate authority under CARES Act to hold certain criminal proceedings by videoconference or teleconference. | • 01/09/2023: Introduced in House; referred to Transportation & Infrastructure, Foreign Affairs, and Rules Committees: |

# TAB 2

ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of September 15, 2022
Washington, D.C. and on Microsoft Teams

The following members attended the meeting in person:

Circuit Judge Thomas L. Ambro
Bankruptcy Judge Rebecca Buehler Connelly
Circuit Judge Bernice Bouie Donald
Bankruptcy Judge Dennis R. Dow
David A. Hubbert, Esq.
Bankruptcy Judge Benjamin A. Kahn
Bankruptcy Judge Catherine Peek McEwen
Debra L. Miller, Esq.
District Judge J. Paul Oetken
Jeremy L. Retherford, Esq.
Damian S. Schaible, Esq.
Tara Twomey, Esq.
District Judge George H. Wu

District Judge Marcia Krieger attended remotely.

The following persons also attended the meeting in person:

Professor S. Elizabeth Gibson, reporter
Professor Laura B. Bartell, associate reporter
Senior District Judge John D. Bates, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Professor Catherine T. Struve, reporter to the Standing Committee
Ramona D. Elliott, Esq., Deputy Director/General Counsel, Executive Office for U.S. Trustees
Kenneth S. Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Circuit Judge William J. Kayatta, liaison from the Standing Committee
Bankruptcy Judge Laurel M. Isicoff, Liaison to the Committee on the Administration of the Bankruptcy System
Nancy Whaley, National Association of Chapter 13 Trustees
H. Thomas Byron III, Administrative Office
Brittany Bunting-Eminoglu, Administrative Office
Bridget M. Healy, Esq., Administrative Office
S. Scott Myers, Esq., Administrative Office
Allison A. Bruff, Esq., Administrative Office
Shelly Cox, Administrative Office
Carly E. Giffin, Federal Judicial Center
Christopher Pryby, Rules Law Clerk
Dana Yankowitz Elliott, Administrative Office

Daniel J. Isaacs-Smith, Administrative Office

The following persons attended the meeting remotely:

Shari Barak, LOGSLegal Group LLP
Pam Bassel, Chapter 13 trustee
Edward J. Boll, Dinsmore & Shohl LLP
Hilary Bonial, Bonial & Associates, P.C
Lisa Caplan, Rubin Lublin
Andrea L. Cobery, U.S. Bank
Jeff Collier, Attorney for Locke D. Barkley, Trustee
Professor Daniel R. Coquillette, consultant to the Standing Committee
James Davis, Chapter 13 trustee
Kathy Day, no affiliation
Ana V. De Villiers, Office of Laurie K. Weatherford, Chapter 13 trustee
Marcy J. Ford, Trott Law, P.C.
Jeff S. Fraser, Albertelli Law
Lisa Gadomski, Schiller, Knapp, Lefkowitz & Hertzel, LLP
Rebecca R. Garcia, Chapter 12 and 13 trustee
John Hawkinson, freelance journalist
Susan Jenson, Administrative Office
Teri E. Johnson, Law Office of Teri E. Johnson, PLLC
Sarah M. McDaniel, Mackie Wolf Zientz & Mann, P.C.
Lisa K. Mullen, Chapter 13 trustee
Lance E. Olsen, McCarthy Holthus, LLP
Madeline Polskin, Shell Point Management
Tim Reagan, Federal Judicial Center
Andrew Spivack, Brock & Scott PLLC
Linda St. Pierre, McCalla Raymer Leibert Pierce, LLC
M. Regina Thomas, bankruptcy court clerk in N.D. Ga.
Vicki Vidal, Black Knight
Julia Waco, Gregory Funding Bankruptcy Department
Alice Whitten, Wells Fargo Legal
Crystal Williams, no affiliation

**Discussion Agenda**

1. **Greetings and Introductions**

Judge Dennis Dow, chair of the Advisory Committee, first introduced Senior Inspector Tirrell Richardson of the Judicial Security Division who provided a brief security announcement. Judge Dow then welcomed the group and thanked everyone for joining this meeting, including those attending virtually, Judge Krieger and Professor Coquillette. He welcomed new Rules Committee Chief Counsel H. Thomas Byron III. He noted that this will be his last meeting as chair of the Advisory Committee, and that also leaving the Committee are Judge Thomas Ambro

and Professor David Skeel. He thanked them for their service. He noted that Judge Rebecca Connelly will be succeeding him as chair. He stated that this has been one of the highlights of his professional career and thanked everyone for their work on this Committee.

Scott Myers made a special presentation to Judge Dow of a commemorative book with the following inscription:

**In special recognition of the Honorable Dennis R. Dow for his exemplary contributions to the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States**

| | |
|---|---|
| Member: | 2014-2022 |
| Forms Subcommittee Chair: | 2014-2018 |
| Chair, Advisory Committee: | 2018-2022 |

*In his eight years on the Advisory Committee Judge Dow was witness to and participated in a number of significant changes to the Bankruptcy Rules and Forms, including a complete revision and restyling of the Official Bankruptcy Forms shortly after he became a member, the promulgation of rule amendments requiring the adoption of a plan form for chapter 13 cases, and a multi-year effort to restyle the Bankruptcy Rules, currently on track to go into effect December 1, 2024.*

*Judge Dow contributed greatly to the Advisory Committee's many projects, but his leadership was particularly evident in the adoption of rule and form amendments necessary to address the passage of the Small Business Reorganization Act of 2019 (the SBRA), the most significant addition to the Bankruptcy Code in 14 years. The SBRA was signed into law with an effective date 180 days after enactment, requiring the Advisory Committee, the Standing Rules Committee and Judicial Conference to 'shorten' the normal three-year amendment process required under the Rules Enabling Act (the REA) to roughly four months. In those four months, the Advisory Committee not only proposed Official Form amendments and Interim Rules that courts could adopt as local rules to implement the SBRA while the REA amendment process ran its course, but it even built in a one-month public comment period to ensure that the best version possible of the needed amendments would be implemented. And just a few months after SBRA took effect, Judge Dow led efforts to respond to temporary changes to the SBRA provisions that Congress enacted during the COVID-19 pandemic*

*This commemorative volume contains the full set of SBRA Rule amendments sent by the Supreme Court to Congress in May 2022 -- on track to go into effect December 1, 2022. These Rules are a small sample of the work done under Judge Dow's leadership.*

Judge Dow then reviewed the anticipated timing of the meeting and when he anticipated lunch. In-person participants were asked to state their name before speaking for the benefit of those not present, and remote participants were asked to keep their cameras on and mute themselves and use the raise hand function or physically raise their hands if they wished to speak.

2. **Approval of Minutes of Remote Meeting Held on March 31, 2022**

Two corrections of the minutes have been requested.

First, Dana Yankowitz Elliott requested a change in the final paragraph of (3)(D) (the report on the meeting of the Bankruptcy Committee). She requested that the language "The Bankruptcy Committee also supports the proposed amendment to Rule 7001(1)" be changed to "The Bankruptcy Committee continues to receive informational updates on the status of the proposed amendment to Rule 7001(1)" and that the language "and remains available should the Advisory Committee wish to refer any matters related to *Fulton* for the Bankruptcy Committee's feedback or input" be added at the end of the paragraph. The minutes as so amended were approved by motion and vote.

Second, in the report by Judge Catherine McEwen on the meeting of the Advisory Committee on Civil Rules in (3)(C), the second paragraph should be deleted. The proposed change is being made to Criminal Rule 16, not Civil Rule 16, and is not relevant to the bankruptcy rules. All remaining paragraphs in her report should be renumbered.

With those changes, the minutes were approved.

3. **Oral Reports on Meetings of Other Committees**

(A) ***June 7, 2022 Standing Committee Meeting***

Judge Dow gave the report.

(1) **Joint Committee Business**

(a) ***Emergency Rules***. The Standing Committee gave final approval to the proposed new and amended rules addressing future emergencies, including new Bankruptcy Rule 9038.

(b) ***Juneteenth National Independence Day***. The Standing Committee also gave final approval (as technical amendments) to the proposed amendments to Appellate Rules 26 and 45, Bankruptcy Rule 9006, Civil Rule 6, and Criminal Rules 45 and 56, subject to the committee notes being made uniform, adding Juneteenth National Independence Day to the lists of specified legal holidays.

***(c)*** ***Pro Se Electronic Filing Project***. Professor Catherine Struve provided the Standing Committee a status report on the working group meetings on the suggestions related to electronic filing by self-represented litigants. She stated that the working group would be meeting again during the summer and would hope to present

topics for discussion at the fall meetings of the advisory committees.

(2) **Bankruptcy Rules Committee Business**

The Standing Committee provided final approval on seven items and approved four others for publication for public comment.

***Final Approval***

(a) ***Restyling***. Judge Dow presented for final approval Parts III through VI of the restyled Rules. He noted that the Advisory Committee received extensive comments from the National Bankruptcy Conference on these rules, in addition to a few other public comments. Some of these comments led to changes. The Standing Committee approved the proposed restyled Rules in Parts III through VI.

(b) ***Rule 3011***. The Standing Committee gave final approval to the proposed amendment to Rule 3011. The amendment adds a subsection to require clerks to provide searchable access on each bankruptcy court's website to information about funds deposited under Section 347 of the Bankruptcy Code.

(c) ***Rule 8003***. The Standing Committee approved the proposed amendment to conform the rule to the recent amendments to Fed. R. App. P. 3.

(d) ***Official Form 101***. The Standing Committee gave final approval to amendments to the individual debtor petition form, concerning other names used by the debtor over the past 8 years.

(e) ***Official Forms 309E1 and 309E2***. The Standing Committee gave final approval to the amendments to the forms used to give notice to creditors after a bankruptcy filing. The amendments improve the formatting and applicable deadlines.

(f) ***Official Form 417A***. The Standing Committee approved amendments to the form to conform to the amendments to Rule 8003.

***Publication for Public Comment***

(a) ***Restyled Rules for Parts VII – IX***. The Standing Committee approved for publication for public comment the proposed restyled rules in Parts VII – IX.

(b) ***Rule 1007(b)(7) and conforming amendments to Rules 1007(c)(4), 4004, 5009, and 9006***. The Standing Committee approved for publication for public comment an amendment to the rule that would require filing the certificate of completion of a course on personal financial management rather than a statement. Conforming amendments in rules 4004, 5009 and 9006 were also approved for publication.

(c) ***Rule 8023.1***. The Standing Committee approved for publication for public comment a new Rule 8023.1 concerning substitution of parties.

(d) ***Official Form 410A***. The Standing Committee approved for publication for public comment amendments to the attachment to the proof-of-claim form that a creditor with a mortgage claim must file.

***Information Item***

Judge Dow also reported on changes that would be required to forms upon anticipated enactment of the Bankruptcy Threshold Adjustment and Technical Correction Act.

(B) ***Oct. 13, 2022, Meeting of the Advisory Committee on Appellate Rules***

The next meeting of the Appellate Rules Advisory Committee will be on Oct. 13, 2022, in Washington, D.C. and the report will be made at the spring meeting.

(C) ***Oct. 12, 2022, Meeting of the Advisory Committee on Civil Rules***

The next meeting of the Civil Advisory Committee will be on Oct. 12, 2022, in Washington, D.C. and the report will be made at the spring meeting.

(D) ***June 7, 2022, Meeting of the Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee")***

Judge Isicoff provided the report.

The Bankruptcy Committee met in June in Denver. It will meet again on December 8-9, 2022, in Washington, D.C.

Legislative Proposal Regarding Emergency Authority and Proposed Rule 9038

The Bankruptcy Committee has been updated by Judge Connelly on the status of proposed Rule 9038, which the Standing Committee has recommended to the Judicial Conference for final approval. The Bankruptcy Committee appreciates the Rules Committee's work on this important effort.

Just as the Rules Committee was considering rules amendments under the CARES Act to deal with future emergencies, in spring 2020, the Bankruptcy Committee developed a legislative proposal to extend statutory deadlines during the pandemic, which the Judicial Conference adopted. Unfortunately, Congress did not take any action on the legislative proposal, and on recommendation from the Bankruptcy Committee, the Conference rescinded the legislative proposal in March 2021.

The Bankruptcy Committee may still consider a broader legislative proposal after the COVID-19 emergency subsides and courts resume normal operations. The broader proposal would likely provide a permanent grant of authority during an ongoing emergency and could enable bankruptcy courts to respond more quickly to future emergency or major disaster declarations. Just like the narrower proposal that was tied to the COVID-19 emergency, the permanent grant of authority would not extend to the Bankruptcy Rules. The Bankruptcy Committee does not have any legislative proposal currently under consideration, but if and when it does consider a proposal related to emergency authority, it will coordinate closely with the Rules Committee to ensure that there is no conflict or overlap with Proposed Rule 9038 (if adopted) or otherwise.

Legislative Proposal Regarding Chapter 7 Debtors' Attorney Fees

At its December 2021 and June 2022 meetings, the Bankruptcy Committee considered certain structural concerns about access to justice and access to the bankruptcy system related to the compensation of chapter 7 debtors' attorneys. It also solicited feedback on these concerns from the AO's Bankruptcy Judges and Bankruptcy Clerks Advisory Groups.

Current law prohibits post-petition collection of unpaid attorney fees for representing a chapter 7 debtor. Chapter 7 debtors' attorneys have developed several methods to ensure that they are paid for their work, including bifurcation of their fees and services under separate prepetition and post-petition agreements. Bankruptcy courts, in turn, have spent considerable time in otherwise straightforward chapter 7 cases wrestling with the legality of, and appropriate parameters for, these payment structures. Rulings on whether and to what extent these arrangements are allowed are inconsistent around the country.

To address these issues, the Bankruptcy Committee considered a number of potential statutory and non-statutory fixes originally proposed in the Final Report of the American Bankruptcy Institute's Commission on Consumer Bankruptcy, and ultimately recommended that the Judicial Conference seek legislation to amend the Bankruptcy Code to (1) except from discharge chapter 7 debtors' attorney fees due under any agreement for payment of such fees; (2) add an exception to the automatic stay to allow for post-petition payment of chapter 7 debtors' attorney fees; and (3) provide for judicial review of fee agreements at the beginning of a chapter 7 case to ensure reasonable chapter 7 debtors' attorney fees.

If the Conference adopts the legislative position and Congress enacts amendments to the Code based on this position, conforming changes to the Bankruptcy Rules would be required.

City of Chicago v. Fulton

The Bankruptcy Committee continues to receive informational updates on the status of the proposed amendment to Rule 7001(a) that responds to issues raised by Justice Sotomayor in her concurrence in *City of Chicago v. Fulton* and remains available should the Rules Committee wish to refer any matters related to *Fulton* for the Bankruptcy Committee's feedback or input.

With respect to the attorneys' fee proposal, Judge Dow asked whether a bankruptcy judge would have to approve fees in every case. Judge Isicoff said the details would have to be worked out, but she contemplated that the courts would adopt something like the practice in chapter 13 cases, a no-look rule if the fees were within certain guidelines. Judge Dow noted that Judge Isicoff is a leader in this area, having authored a leading opinion on the topic.

**Subcommittee Reports and Other Action Items**

4. **Report by the Consumer Subcommittee**

(A) ***Consider changes to proposed amendments to Bankruptcy Rule 3002.1 in light of public comments***

Professor Gibson provided the report.

After presenting the Subcommittee's preliminary reactions to the comments to the Advisory Committee at its last meeting, the Subcommittee has met several times and now recommends a revised amended Rule 3002.1 to the Advisory Committee, which the Subcommittee believes is responsive to the comments.

The key changes to the published draft are as follows:

In subdivision (b) the Subcommittee recommended changing the order of former (b)(2) and (b)(3) and making optional the provisions for annual notices of HELOC-payment changes. This is also responsive to comments suggesting that the rule was not authorized by the Rules Enabling Act. Other changes include a clarification of the amounts of the next two payments following an annual notice and the addition of an explicit exception for HELOCs in (b)(1). Professor Gibson noted that the except clause in (b)(1) should be modified to limit it to the time period for notice, not the service requirement. Judge Connelly suggested reversing the sentences so the time period exception comes after the service requirement in (b)(1) so the first sentence would provide "The notice must be served on: [list]". Professor Struve suggested a slight modification to the structure of the second sentence to provide "Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due."

The Subcommittee recommended several changes to (b)(4) in response to comments. A service requirement is added, and the effective date of a payment change when there is no objection is clarified. The references to § 1322(b)(5) is deleted.

Changes to (b)(1), (c), (d) and (e) are primarily stylistic.

The Subcommittee recommended significant changes to (f), which was the subject of most of the critical comments upon publication. The Subcommittee recommends that (1) the midcase review be made optional rather than mandatory, (2) it be initiated by either the trustee or the debtor, (3) it could be sought at any time during the case rather than just between 18 and 24 months after the petition was filed, but the committee note suggests that it should be used only when necessary and appropriate for carrying out the plan, and (4) it would be initiated by motion,

rather than notice. The claim holder would have an obligation to respond only if the claim holder disagreed with the facts set forth in the motion. A sentence was added to authorize the court to enter an order favorable to the moving party if the claim holder does not respond.

Judge Kahn suggests that the language in (f)(3) should contemplate that the court should be able to enter an order even if a claim holder filed a response agreeing with the facts set forth in the motion. The sense of the Advisory Committee was favorable to amending the language to say, "If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an order favorable to the moving party based on those facts."

Judge Isicoff asked whether the motions must be served under Rule 7004. Judge Dow said that the amended rule does not so require, and Professor Gibson said that this question is not addressed by the current rule. Judge McEwen suggested that courts may want to impose a Rule 7004 service rule because of the way the mortgage servicing industry works. Judge Connelly said that this was not addressed and should be left to the courts. Judge McEwen suggested adding something to the committee note inviting courts to address the issue. Deb Miller said requiring Rule 7004 service for these motions would be a considerable expense to the trustee. No change was suggested by the Advisory Committee in response to this discussion.

The revised proposal consolidates all end-of-case determination provisions in a single subdivision (g). The Subcommittee recommended that the current procedure of (f)-(h) be retained, with some changes to make it more effective. The procedure would be initiated by a notice rather than a motion and would have to be filed within 45 days after the debtor completed all payments due to the trustee under the plan. The claim holder would be required to file a response to the notice. The time limits for both the notice and response would be longer than under the current rule, and Official Forms would be created for both filings.

If either the trustee or the debtor wanted a court determination of whether the debtor had cured any default and paid all required postpetition amounts, either could file a motion for a court determination. The Subcommittee recommends that the rule not specify what should be in the court's order, but a Director's Form could be created for this purpose.

Deb Miller stated that the midcase motion to determine status will address the concern that there was no vehicle to allow the debtor's attorney or trustee to determine whether payments were current before the end of the case.

In (h), the Subcommittee recommends two changes in response to comments. One is to insert the word "as" in the first sentence, as in the existing rule. The second is to provide authorization for noncompensatory sanctions in appropriate circumstances.

Changes were made to the committee note to reflect these changes.

Judge Dow stated that he was pleased with the process and comfortable with the modified rule. Judge Kayatta suggested changing "the effective date of the new payment" to "the effective

date of the new payment amount" in the first paragraph in (b)(3). The Committee agreed. He also questioned whether using a cross-reference to (b)(1) for the parties to be served was appropriate if the debtor was doing the service, but the conclusion was that the cross-reference worked in that case.

The Subcommittee recommended that this revised amended version of the rule be recommended to the Standing Committee for republication. Although all changes are responsive to comments and republication may not be necessary, the Subcommittee concluded that republication would be helpful and some new provisions, like the explicit authorization of noncompensatory sanctions, might attract significant comment. Because the Forms Subcommittee must review the implementing forms in light of the comments and proposed changes to the rule, the Subcommittee recommended that the revised rule not go to the Standing Committee until June 2023. Judge Bates agreed that republication is appropriate.

Judge Bates asked what changes are being made pursuant to the comments today. Judge Dow said he was comfortable with Professor Gibson making changes in response to the comments, and asked her to identify and repeat the substance of the changes before the Advisory Committee voted on the rule.

The Advisory Committee recommended that the revised rule be sent to the Standing Committee for republication at the June 2023 meeting of the Standing Committee.

(B) ***Consider amendment to Rule 5009(b) (Suggestion 22-BK-D)***

Professor Gibson provided the report.

Professor Laura Bartell submitted Suggestion 22-BK-D, which arises out of research she has conducted concerning individual debtors emerging from bankruptcy without a discharge because of their failure to timely file a statement of completion of a course on personal financial management. In order to reduce the number of these cases, she suggested that the timing of the notice under Rule 5009(b), which reminds the debtor of the need to file documentation of course completion, be moved up to just after the conclusion of the meeting of creditors. This suggestion was considered by the Subcommittee during its August 12 meeting.

Professor Bartell examined all the chapter 7 and chapter 13 cases filed in 2019 on the interactive Federal Judicial Center Integrated Database. She discovered that over 6400 cases—primarily in chapter 7—were closed without a discharge because of the failure to submit a statement of completion of a course concerning personal financial management.

Professor Bartell suggested that, to reduce the number of cases where this problem occurs, the Rule 5009(b) notice should be sent just after the conclusion of the § 341 meeting, rather than 45 days after the first date set for that meeting, and that, to the extent possible, a specific filing deadline be stated.

The Subcommittee shares Professor Bartell's desire to reduce the number of individual

debtors who go through bankruptcy but do not receive a discharge because they either fail to take the required course on personal financial management or merely fail to file the needed documentation of their completion of the course.

The issue for the Subcommittee then was whether sending the Rule 5009(b) notice earlier in the case will increase its effectiveness and thereby decrease even further the number of noncompliant debtors in chapter 7 and 13 cases. Professor Bartell suggested that it will do so because at the conclusion of the meeting of creditors debtors will be focused on their bankruptcy case and likely to still be in contact with their attorneys and reachable by the court.

Additionally, the Subcommittee discussed what should be the timing of an earlier notice. Members concluded that the date should not be expressed as a number of days after the conclusion of the meeting of creditors for two reasons. First, the meeting may be continued and not concluded until after the deadline for filing the certificate of course completion. Second, the clerk's office is generally not aware of when the meeting of creditors concludes. The Subcommittee therefore discussed moving up the time of the Rule 5009(b) notice to a number of days after the filing of the petition or after the first date set for the meeting of creditors. It did not settle on a date, however.

To inform the Subcommittee's decision, Ken Gardner offered to gather information from his staff about when filings in his district occur under the current rule in relation to when the Rule 5009(b) notice is sent. His office sends the notice 90 days after the case is filed. About 85% of debtors comply with the initial notice. Sixteen percent of debtors fail to file within the 45 days. Most filed within 20 days after the reminder. Ninety-five percent of debtors actually file before the case was closed.

The Subcommittee discussed other possibilities like sending two notices, and whether chapter 13 cases should be included. The Subcommittee invited comments from the Advisory Committee.

Judge Isicoff thought chapter 13 should be included. Judge Kahn said that the deadline for filing the certificate should perhaps be moved up, not just the timing for the notice. Professor Gibson noted that the Advisory Committee had previously extended the deadline for filing, thinking it would be advantageous to debtors. Judge McEwen suggested that the course should be taken as early as possible to give debtors the advantages of its content. Judge Connelly said that when the deadline was earlier, more debtors failed to comply. Judge Kahn said perhaps the deadlines should be different for chapter 7 and chapter 13, because chapter 7 is so much shorter. Ken Gardner said that anything we can do to help debtors get their discharge is desirable. A reminder notice is definitely effective. Perhaps a reminder notice should be sent after a plan confirmation in a chapter 13, and after the § 341 meeting for a chapter 7.

The Subcommittee will continue to consider these issues.

6. **Report by the Forms Subcommittee**

(A) ***Consider Suggestion 22-BK-E to amend Forms 309A and 309B to include the deadline for the debtor to file the certificate of completion evidencing completion of the required financial management course.***

Professor Gibson provided the report. Professor Bartell suggested that the forms providing notice of a bankruptcy filing by an individual debtor in a chapter 7, 11, or 13 case be amended to include a provision notifying the debtor of the obligation to file a certificate of completion of a course on personal financial management and stating the filing deadline.

The Subcommittee concluded that the proposed amendment should be made only to the chapter 7 forms – Official Form 309A and 309B – both because the debtors who file under chapter 7 are the most likely to fail to complete the course by the required deadline and because only in chapter 7 is the deadline known at the time the notice is sent out.

Ramona Elliott noted that the vast majority of credit counseling agencies file the certificate, and the language might be interpreted to impose an additional duty on the debtor when the course provider is filing the certificate. Judge Donald asked why the approval process for course providers cannot require them to file the certificate. Ms. Elliott said that changing the approval rules would require a formal rule change. Judge Connelly suggested the language say the debtor must file the certificate "unless the provider has done so." Tara Twomey agreed that this language would be more understandable to the debtors.

The Advisory Committee recommended the amended form and committee note with that change to the Standing Committee for publication.

(B) ***Consider Suggestion 22-BK-C for amendment to OF 410 concerning the Uniform Claim Identifier field.***

Professor Bartell provided the report. The Advisory Committee received a suggestion from Dana C. McWay, Chair of the Administrative Office of the U.S. Courts' Unclaimed Funds Expert Panel, that part 1, Box 3 of Official Form 410 be modified to change the line referring to the uniform claim identifier so that it is no longer limited to use in chapter 13. The Subcommittee concluded that the suggestion should be adopted, but expanded even further to permit use of the uniform claim identifier not only in cases filed under all chapters of the Code, but also for payments made other than electronically. Use of the uniform claim identifier remains completely voluntary.

The Advisory Committee recommended the amended Form 410 and the committee note to the Standing Committee for publication.

6. **Report of the Privacy, Public Access, and Appeals Subcommittee**

(A) ***Consider Recommendation to Publish an Amendment to Rule 8006(g)***

Judge Ambro described some of the background on the proposal for direct appeals. Professor Bartell provided the report. At the last meeting of the Advisory Committee, the Subcommittee recommended amendments to Rule 8006(g) suggested by Bankruptcy Judge A. Benjamin Goldgar to make explicit what the Subcommittee believed was the existing meaning of the rule – that any party to an appeal may submit a request to the court of appeals to accept a direct appeal under 28 U.S.C. § 158(d)(2).

At the spring Advisory Committee meeting Professor Struve expressed concern about the interplay between Rule 8006(g) and Fed. R. App. P. 6(c). She suggested that the amendment to Rule 8006(g) be recommitted to the Subcommittee with the recommendation that the Subcommittee work with the Advisory Committee on Appellate Rules to ensure that the two rules work in tandem. The Advisory Committee followed that recommendation.

The reporters for the Bankruptcy Rules Committee and the Appellate Rules Committee conferred and developed coordinated proposals. Although the Appellate Rules Committee will not meet until after the Advisory Committee meeting, Professor Edward A. Harnett intends to present the draft amendments to Rule 6(c) to the Appellate Rules Committee at its next meeting.

The Advisory Committee recommended the proposed amendments to Rule 8006(g) and committee note to the Standing Committee for publication, conditional on the Appellate Rules Committee approving modifications to the appellate rules consistent with the prior discussions among the reporters.

7. **Report of the Restyling Subcommittee**

Judge Krieger congratulated Judge Dow on his leadership of the Advisory Committee. She noted that we are nearing the end of the process, and wanted to praise the efforts of the Subcommittee members, the reporters, and the Administrative Office personnel who worked on this project.

Professor Bartell then gave the report. Parts III-VI were given final approval by the Standing Committee at its meeting in June. Parts VII-IX were published for comments August 15, and comments will be considered at the next meeting of the Advisory Committee.

Since the restyling process has begun, some of the rules that were restyled have been amended substantively in a way that has already become effective or will become effective before the restyled rules are finalized. The Subcommittee has looked at all these rules and has approved the revisions to the amended restyled rules. It does not believe that any of the amendments require republication.

The style consultants are working on a "top-to-bottom" review of the restyled rules (both amended and not) for consistency and any final style changes. All those comments will be reviewed by the Subcommittee and presented to the Advisory Committee in connection with final approval of the restyled rules.

Professor Bartell again thanked the Subcommittee and the style consultants for their work on this project.

Scott Myers asked whether the Advisory Committee is comfortable that republication of the amended restyled rules is not necessary. The Advisory Committee was comfortable with the recommendation of the Subcommittee that republication is not necessary.

8. **Update on the Work of the Pro-Se-Electronic-Filing Working Group**.

Professor Struve gave the report. Under the national electronic-filing rules that took effect in 2018, self-represented litigants presumptively must file non-electronically, but they can file electronically if authorized to do so by court order or local rule. In late 2021, in response to a number of proposals submitted to the advisory committees, a cross-committee working group was formed to study whether developments since 2018 provide a reason to alter the rules' approach to e-filing by self-represented litigants. This working group includes the reporters for the Appellate, Bankruptcy, Civil, and Criminal Rules advisory committees as well as attorneys from the Rules Committee Staff Office and researchers from the Federal Judicial Center (FJC). By March 2022, Tim Reagan, Carly Giffin, and Roy Germano of the FJC had conducted a study of current practices in various courts with respect to electronic filing and shared it with the working group.

Since 2018 the national rules on filing have set a default principle that pro se litigants can use electronic filing (CM/ECF) only if permitted by court rule or order. Sai has suggested flipping the presumption. John Hawkinson has suggested that in the absence of such a change the rules committees should consider setting reasonable standards for when permission should be granted.

The working group has been meeting on these suggestions and discussing both electronic filing and electronic service.

Electronic Filing

On the topic of electronic filing, there are questions both about access to the CM/ECF system and about other electronic methods for submitting filings to the court. There are also questions about whether the best way forward is through rule amendments or whether other measures could increase self-represented litigants' electronic access. Quantitatively, the FJC study found that, among the courts of appeals, five circuits presumptively permit CM/ECF access for non-incarcerated self-represented litigants, seven circuits allow it with permission in an individual case, and one circuit has a rule against such access (but has made exceptions in some instances). The researchers report that, based on the local rules, at least 9.6% of districts

"permit nonprisoner pro se litigants to register as CM/ECF users without advance permission" (in existing cases, though typically not to file complaints); 55% of districts "state that nonprisoner pro se litigants are permitted to use CM/ECF to file in their existing cases with individual permission"; 15% state "that pro se litigants may not use CM/ECF"; and 19% fail to "specify one way or the other whether pro se litigants can use CM/ECF." Further along the spectrum, the study found that it is "very unusual for pro se debtors to receive CM/ECF" access in the bankruptcy courts. In courts that have explored alternative electronic routes for self-represented litigants' access, options include both electronic means for submitting filings to the court and electronic noticing programs.

Service on Registered CM/ECF Users

Because notice through CM/ECF constitutes a method of service, the rules effectively exempt CM/ECF filers from separately serving their papers on persons that are registered users of CM/ECF. By contrast, the rules can be read to require non-CM/ECF filers to serve their papers on all other parties, even persons that are CM/ECF users. It would be useful for the advisory committees to consider whether this difference in treatment is desirable. Requiring self-represented litigants to make separate service on registered CM/ECF users may impose an unnecessary task. Should service rules be amended to eliminate this redundant service requirement?

The Working Group invites comments from the various advisory committees. The rules might proceed at different paces for different sets of rules.

Professor Gibson emphasized that most of these electronic access rules do not apply to case-initiation filings. Self-represented debtors should not be able to file a petition through CM/ECF and get the automatic stay. Tara Twomey expressed the view that self-represented debtors should be given access to CM/ECF. Judge Dow said he could not understand why there should be a bar on electronic filing in his bankruptcy court when the district court allows it. Judge Kahn finds the arguments against electronic access unconvincing. Whether it is a physical filing or an electronic filing, the burden is the same on the court. Judge Dow sees this as the next big issue for the Advisory Committee. He also thinks paper service should not be required for those being served through CM/ECF. Ken Gardner said it is more work for the clerk's office if filings are made by paper rather than electronically, and requiring paper filing is discriminatory. Judge McEwen said that when filings are tangible the debtors may claim they are stolen or treated improperly. But she is also concerned about how to deal with self-represented litigants who file improper papers. Judge Bates asked why that is different with paper filings and electronic filings, and said that the system has methods to deal with improper filings. Judge McEwen said that in her district the clerk's office does not accept improper paper filings and requires the debtors to come pick them up. Judge Kahn says that all litigants file things they should not, and we have tools to deal with that. Tara Twomey noted that the U.S. postal service is not operating efficiently right now, and the service issue is critical. Ken Gardner said that the rules require the clerk to accept everything presented for filing. Judge Connelly said access to a courthouse is a barrier if you are in a rural area. Allowing electronic access is important. And if there are multiple courthouses in a district, pro se litigants don't know what address to use. Judge

Krieger said there has been a lot of development of CM/ECF over time, and security has improved dramatically. But there are circumstances where the pro se litigant includes information that should not be publicly disclosed that could harm them or third parties. She asked, who decides what information gets into the public record?

Professor Struve said that this discussion is exactly what she hoped to gain from this meeting. Judge Dow said that the Advisory Committee is on board with the project of advancing the goal of increased electronic filing and service by self-represented litigants and looks forward to participating in the process of rules amendments over time to deal with the issue. Professor Gibson was pleased to hear the enthusiasm for electronic filing from the Advisory Committee.

9. **Future meetings**

The spring 2023 meeting has been scheduled for March 30 (and tentatively, March 31), 2023 in West Palm Beach, FL.

10. **New Business**

There was no new business.

11. **Adjournment**

The meeting was adjourned at 12:35 p.m.

**Proposed Consent Agenda**

The Chair and Reporters proposed the following items for study and consideration prior to the Advisory Committee's meeting. No objections were presented, and all recommendations were approved by acclamation at the meeting.

1. Forms Subcommittee

   (A) Recommendation of no action regarding suggestion 22-BK-B to amend certain versions of Form 309 to provide the deadline for filing an objection under Rule 1020(b).

2. Business Subcommittee

   (A) Recommendation of no action regarding suggestion 22-BK-F from Giuseppe Ippolito to amend Rule 7012(b).

# TAB 3

# TAB 3A1

**MINUTES**
**COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**
January 4, 2023

The Judicial Conference Committee on Rules of Practice and Procedure (the "Standing Committee") met in a hybrid in-person and virtual session in Fort Lauderdale, Florida, on January 4, 2023. The following members attended:

Judge John D. Bates, Chair
Elizabeth J. Cabraser, Esq.
Robert J. Giuffra, Jr., Esq.
Judge William J. Kayatta, Jr.
Judge Carolyn B. Kuhl
Dean Troy A. McKenzie
Judge Patricia A. Millett
Hon. Lisa O. Monaco, Esq.[*]
Andrew J. Pincus, Esq.
Judge Gene E.K. Pratter
Kosta Stojilkovic, Esq.
Judge D. Brooks Smith
Judge Jennifer G. Zipps

The following attended on behalf of the Advisory Committees:

Advisory Committee on Appellate Rules –
Judge Jay S. Bybee, Chair
Professor Edward Hartnett, Reporter

Advisory Committee on Bankruptcy Rules –
Judge Rebecca Buehler Connelly, Chair
Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter

Advisory Committee on Civil Rules –
Judge Robin L. Rosenberg, Chair
Professor Richard L. Marcus, Reporter
Professor Andrew Bradt, Associate Reporter
Professor Edward H. Cooper, Consultant

Advisory Committee on Criminal Rules –
Judge James C. Dever III, Chair
Professor Sara Sun Beale, Reporter
Professor Nancy J. King, Associate Reporter

Advisory Committee on Evidence Rules –
Judge Patrick J. Schiltz, Chair
Professor Daniel J. Capra, Reporter

Others who provided support to the Standing Committee, in person or remotely, included Professor Catherine T. Struve, the Standing Committee's Reporter; Professors Daniel R. Coquillette, Bryan A. Garner, and Joseph Kimble, consultants to the Standing Committee; H. Thomas Byron III, Secretary to the Standing Committee; Allison A. Bruff, Esq., Bridget M. Healy, Esq., and S. Scott Myers, Esq., Rules Committee Staff Counsel; Brittany Bunting–Eminoglu and Shelly Cox, Rules Committee Staff; Christopher I. Pryby, Law Clerk to the Standing Committee; Hon. John S. Cooke, Director of the Federal Judicial Center (FJC); and Dr. Tim Reagan, Senior Research Associate, FJC.

[*] Elizabeth J. Shapiro, Deputy Director, Federal Programs Branch, Civil Division, represented the Department of Justice (DOJ) on behalf of Deputy Attorney General Lisa O. Monaco.

## OPENING BUSINESS

Judge Bates called the meeting to order. He welcomed new Standing Committee members Judge D. Brooks Smith and Andrew Pincus; the new chairs of the Advisory Committees on Bankruptcy and Civil Rules, Judge Rebecca Connelly and Judge Robin Rosenberg; and the new Associate Reporter for the Civil Rules Committee, Professor Andrew Bradt. Judge Bates noted the departures of Judge Gary Feinerman from the Standing Committee and former Civil Rules Committee Chair Judge Robert Dow. He stated that he would work to find new members to fill the vacancies on the Standing and Civil Rules Committees. In addition, Judge Bates welcomed the members of the public who were attending remotely or in person.

Upon motion by a member, seconded by another, and without dissent: **The Standing Committee unanimously approved the minutes of the June 7, 2022, meeting.**

Judge Bates highlighted pending rules amendments, including new emergency rules arising out of the CARES Act and amendments to Evidence Rules 106, 615, and 702. These amendments will take effect on December 1, 2023, assuming that the Supreme Court approves them and absent any contrary action by Congress.

For the legislative update, Judge Bates observed that with the end of the 117th Congress, all pending legislation had expired. Law clerk Christopher Pryby noted that, of the Fiscal Year 2023 National Defense Authorization Act provisions that he had highlighted at earlier Advisory Committee meetings, none remained in the enacted version of the bill.

## JOINT COMMITTEE BUSINESS

*Electronic Filing by Self-Represented Litigants*

Judge Bates introduced this agenda item, which is under consideration by the Appellate, Bankruptcy, Civil, and Criminal Rules Committees. He thanked Professor Struve for her leadership on this project and her coordination among the Advisory Committees, and he invited her to provide an update on those discussions.

Professor Struve began by acknowledging the group effort that had gone into the project so far, especially from the FJC team, including Tim Reagan, Carly Giffin, and Roy Germano, who had done phenomenal work that culminated in a study released in 2022.

This project originated from several proposals about electronic filing for self-represented litigants. The current rules provide for electronic filing as a matter of course by those who are represented by lawyers, but self-represented litigants must file nonelectronically unless allowed to file electronically by court order or local rule. The proposals take two main forms: one advocates a national rule presumptively allowing self-represented litigants to file electronically, while the other advocates disallowing categorical bans on, and setting a standard for granting permission for, electronic filing by self-represented litigants.

Recounting the FJC's findings, Professor Struve noted that, in the courts of appeals, there is a close split between the circuits that presumptively give self-represented litigants access to the Case Management/Electronic Case Filing system ("CM/ECF") and those that allow that access

with permission; one outlier circuit currently has a local provision prohibiting self-represented litigants from filing electronically. In the district courts, the picture is more mixed—the bulk of districts allow self-represented litigants to file electronically with permission, a bit less than 10% presumptively permit self-represented litigants to file electronically, and about 15% do not allow it at all. And in the bankruptcy courts, it is rare for self-represented litigants to have access to CM/ECF.

The fall Advisory Committee meetings provided an opportunity to get members' senses about the current situation and their reactions to the possibility of adopting a default rule of presumptive access to CM/ECF for self-represented litigants. Those discussions also considered potential alternate means of electronic access for self-represented litigants, like those that courts experimented with during the COVID-19 pandemic. The discussions also included the possibility of policy changes not based on rules amendments as well as the need for coordination with other committees of the Judicial Conference.

A second question concerns the rules governing service of papers during a lawsuit. As between any pair of litigants who are both users of CM/ECF, service is simple, because the notice of electronic filing produced when the paper is filed in CM/ECF constitutes service. By contrast, a form of service other than the notice of electronic filing is necessary when the party to be served is not a CM/ECF user. But when a party that is not a CM/ECF user files a paper by some other means, must that party separately serve the parties who *are* users of CM/ECF? Those parties will receive the notice of electronic filing after the court clerk scans and uploads the nonelectronic filing to CM/ECF. The rules nevertheless appear to require the non-CM/ECF user to serve these parties. The questions before the committees were: Why? Is this burden on self-represented litigants necessary? Should the rules be amended to eliminate this requirement? Some districts have eliminated the requirement for service on parties who are CM/ECF users, and those districts have generally reported positive experiences with that change.

Professor Struve reported a fair amount of interest in investigating the possibility of eliminating that requirement. But there are still some details to be worked out: (1) How does the court make clear to a nonelectronic filer which parties are, and which are not, on CM/ECF—and, thus, who does and does not need separate service? (2) Would the three-day rule work seamlessly with this change, or would it need some wording adjustments? For example, the time calculation might need to be clarified or adjusted to ensure no unfairness to a party if there is some delay between when the clerk receives a filing and when the clerk dockets it in CM/ECF. Professor Struve believes this proposal contains the germ of an idea that may be appropriate for a possible rule amendment, and she expressed her hope that the Advisory Committees would continue working on the project in the spring.

Returning to whether there should be a change in the default rule governing self-represented litigants' access to CM/ECF, Professor Struve surveyed the reactions of the Advisory Committees on that proposal. The Bankruptcy Rules Committee took a positive view of the overall idea, viewing it as a matter of access to the courts. Notably, the court-clerk representative on that committee supported the proposal, saying that it is helpful for filings to be electronic whenever possible. But there was some division of views on the committee, with a couple of members expressing the need for caution and raising important questions that are detailed in the committee's minutes and reports.

The Appellate Rules Committee took a somewhat positive view of the overall concept of access to CM/ECF for self-represented litigants, in line with the current policies of the courts of appeals. Professor Struve thought that the interesting question for this committee was whether the Appellate Rules should be amended to reflect or encourage that outcome, given that the courts of appeals are already increasing CM/ECF access for self-represented litigants (with greater celerity than the lower courts). A default rule of access to CM/ECF for self-represented litigants might be easiest to adopt in the Appellate Rules, given the movement in that direction in the courts of appeals. A question for the Appellate Rules Committee may be how to balance that consideration against the value of uniformity across the national sets of rules.

Professor Struve reported that there were more skeptical voices in the Civil Rules Committee on the proposal relating to CM/ECF access. Some members wondered whether the matter might be more appropriately treated by another Judicial Conference actor such as the Committee on Court Administration and Case Management ("CACM"). Overall, there was much less momentum on the Civil Rules Committee for a rule change.

Turning to the Criminal Rules Committee, Professor Struve first noted that this committee's interest was different from that of the other Advisory Committees. There are very few nonincarcerated, self-represented litigants appearing in situations covered by the Criminal Rules. (Professor Struve noted that, even in the districts that presumptively allow self-represented litigants CM/ECF access, that presumption of access typically excludes incarcerated litigants because of the logistical particulars of carceral settings. So, at least in the near future, even the most expansive grant of electronic-filing permission to self-represented litigants would likely not encompass incarcerated self-represented litigants.) But the committee had an excellent discussion of the service issue, and the committee would be open to exploring that question further.

Professor Struve concluded by welcoming the input of the Standing Committee members on any of these topics. She noted that the project continues to operate in an information-gathering mode, especially on the service issue and the various ways by which electronic-filing access could be expanded for self-represented litigants, including by working in tandem with other Judicial Conference actors.

Judge Bates thanked Professor Struve and opened the floor to comments and questions.

A practitioner member suggested that greater access for self-represented litigants is a good thing, but also that some fraction of self-represented litigants would abuse electronic-filing access. This member asked which would be easier for courts to administer: a rule requiring courts to deal with requests for permission, or a rule granting access by default and leaving the courts to deal with the task of revoking that access in particular cases? Professor Struve noted that Dr. Reagan and his colleagues at the FJC had talked with clerk's offices around the country and would be in a good position to answer that question. Dr. Reagan reported that, in speaking with personnel in several districts that had recently expanded self-represented litigants' access to CM/ECF, he and his colleagues heard that court personnel's fears were not particularly realized. He also observed that self-represented litigants can disrupt the work of the court regardless of their filing method. In fact, some courts appreciated receiving documents electronically because they did not have to receive things in physical form that would be unpleasant to handle. And every court is quite capable of limiting improper litigant behavior.

A judge member appreciated the thoroughness of the FJC report in obtaining input from clerk's offices and considering the pros and cons of a change in the rules and other issues that would arise. The member thought that the primary focus of this project ought to be learning about the experiences of clerk's offices. The clerk's office of the member's court had strong views on this matter, especially on who should bear the burden of the work generated by noncompliant self-represented litigants.

Ms. Shapiro asked whether the FJC report looked at whether self-represented litigants complied with redaction and privacy-protection rules. Dr. Reagan responded that the report did not get into the weeds with this question, but he did note that this same problem occurs with represented litigants as well. One appellate clerk had mentioned locking a document and later posting a corrected version; he was not sure whether that had to do with redaction problems. He stated that there is a way to configure CM/ECF so that the court must "turn the switch" before a submitted filing is made available in the record.

Judge Rosenberg reiterated her comments from the October Civil Rules Committee meeting, which reflected feedback from her court's clerk: Most courts are not equipped to accept self-represented litigants' filings through CM/ECF. So, while it is a good idea to expand electronic filing to all litigants, until all courts can comply, it is not advisable to amend the federal rules to establish a presumption in favor of allowing electronic filing. Additionally, different courts use different versions of CM/ECF, and the version used affects both the court and the filer. Further, there is not a unique identifier for many self-represented litigants. By contrast, attorneys have unique bar numbers.

Professor Struve responded that, if a court would not be able to function with a presumption in favor of electronic access for self-represented litigants, then that court could adopt a local rule to opt out of the presumption. It is true that, if the bulk of districts opted out, that might lead one to question the wisdom of the rule. As to the point about identifiers, Professor Struve suggested that the districts currently allowing presumptive or permissive electronic access by self-represented litigants would have had to solve that problem, so it would be helpful to ask those districts for their experiences with that issue.

Judge Bates concluded by recognizing that cases involving self-represented litigants make up a large part of the civil and bankruptcy dockets in federal court, and this is a project that the committees will continue to work on. He hoped that the committees and reporters would continue to provide a high level of participation, and he thanked Professor Struve and everyone else who had worked on the project with her so far.

*Presumptive Deadline for Electronic Filing*

Judge Bates reported on a joint committee project that arose from a suggestion by Chief Judge Chagares of the Third Circuit, the former chair of the Appellate Rules Committee, that the committees consider changing the presumptive deadline for electronic filing from midnight to an earlier time. Judge Bates observed that the FJC had done excellent research for this project, and that one of the relevant FJC reports was included in the agenda book. The status of the project is uncertain. The Civil Rules Committee has recommended that the project be dropped. But the Appellate Rules Committee recommended that the question of how to proceed be posed, in the

first instance, to the Joint Subcommittee on E-filing Deadlines, because that Subcommittee has not convened recently. Judge Bates agreed that the Joint Subcommittee should be asked to undertake a careful review of the project, and he noted that he would also continue to seek Chief Judge Chagares's input.

## REPORT OF THE ADVISORY COMMITTEE ON APPELLATE RULES

Judge Bybee and Professor Hartnett presented the report of the Advisory Committee on Appellate Rules, which last met in Washington, D.C., on October 13, 2022. The Advisory Committee presented several information items and no action items. The Advisory Committee's report and the draft minutes of its last meeting were included in the agenda book beginning at page 134.

*Information Items*

***Amicus Disclosures.*** Judge Bybee reported on this item. He described it as perhaps the highest-profile matter before the Advisory Committee. There has been a long exchange of correspondence between the Clerk of the Supreme Court and the chairs of the Senate and House Judiciary Committees over amicus practice, and, during the previous Congress, legislation was introduced in each house that would regulate amicus practice. The Supreme Court and its Clerk referred the matter to the Advisory Committee. The Advisory Committee has made some progress, but it seeks input from the Standing Committee on some important policy questions.

Judge Bybee directed the Standing Committee's attention to draft Rules 29(c)(3) and (c)(4) as set out in the agenda book; he noted that this was a working draft, not yet a proposal. Draft Rule 29(c)(3) would require an amicus to disclose any party that has a majority interest in or control of the amicus. Draft Rule 29(c)(4) would require the amicus to disclose any party that has contributed 25% or more of the amicus's gross annual revenue over the last 12 months. The Advisory Committee sought input on two questions: (1) Is 25% the right number? (2) Is the last 12 months the right lookback period, or should it be the previous calendar year? As to question (1), at the October 2022 Advisory Committee meeting, some members had expressed concern that, if the rule set one particular percentage—such as 25%—as the trigger for disclosure, then where a party's contributions were anywhere above that single threshold the amicus might not file a brief out of concern that the court would assign the brief little weight. An alternative suggestion was to require an amicus to disclose that the contribution percentage lay within some "band" of amounts—such as from 20% to 30%, 30% to 40%, and so on.

A practitioner member wondered whether there was a need to regulate this area. However, given that Congress has expressed an interest in the topic, the member suggested that perhaps it did make sense for the committees to consider possible rule amendments. The member thought 25% was a reasonable number because, in the member's experience, that contribution level would be highly unusual and could indicate that the amicus is acting as a front for a party. The member also thought it more administratively feasible to use the last calendar year than the last 12 months.

Judge Bates asked whether the current draft Rule 29(c)(3) would capture a situation in which a party and the party's counsel each had a one-third interest in the amicus. Should the rule capture that situation? The draft wording—"whether a party or its counsel has (or two or more

parties or their counsel collectively have) a majority ownership interest"—addresses a situation in which "two or more parties or their counsel" have a collective interest, but it is not clear if it captures situations in which a single party and its counsel have a collective interest. Should "a party or its counsel has" be "a party and/or its counsel have"?

Professor Garner opined that a hard contribution threshold might encourage parties to structure their contributions in such a way as to avoid meeting the threshold. He suggested that the Advisory Committee instead consider a rule requiring disclosure of "the extent to which" a party has contributed to the amicus. The court could decide for itself what contribution amount was de minimis. And an organization that goes to the trouble of preparing an amicus brief would be able to answer the contribution question with a fair degree of certainty.

Professor Hartnett responded that the Advisory Committee had some concern about requiring that amount of precision. Instead, requiring disclosure within a band of contribution percentages tried to address the structuring issue. The Advisory Committee also wanted to build into the rule a floor beneath which amici need not worry about having to make a disclosure.

Judge Bates noted that the rule could also be tweaked to require disclosure of a precise percentage above a floor. Those below that floor would not have to make a disclosure.

A practitioner member commented on the general view of practitioners in this area: If an amicus must make a disclosure, then its brief will probably not get much attention. A rule that requires a disclosure suggests that a brief containing that disclosure is tainted in some way. In many of these situations, an amicus would likely choose not to file a brief rather than to make a disclosure. So there should almost certainly be a floor before disclosures are required. There is also a First Amendment interest in this area (the member noted the decision in *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021))—and whatever rule is adopted must be examined through that lens. That interest further weighs in favor of a floor below which no disclosure is required. Because the disclosure requirement will change the dynamics of amicus filings, the calculus on whether and how to amend the rule should consider whether the benefits of disclosure outweigh the harm of deterring amicus filings.

Judge Bates agreed that the goal is not to dissuade the filing of amicus briefs but rather to provide information to the courts and public with respect to those who file these briefs.

A judge member had difficulty recalling any amicus briefs as to which it was not obvious who was filing the brief and as to which more information about the amicus would have made a difference. It is the brief's contents that matter, not its author. If other appellate judges feel similarly, then the member would not worry about trying to craft a rule that would require complete disclosure of all details about the amicus.

Judge Bybee noted that one concern is that parties are evading their own page limits by inserting their arguments into amicus filings. The judge member suggested skepticism about the gravity of that particular concern. He conceded that Congress's interest in the amicus-disclosure issue weighs in favor of careful consideration of a possible rule amendment. But, he suggested, if the courts of appeals generally feel that they are not being hoodwinked by amici or deluded into believing something about which they otherwise would have been more suspicious had amici's

relationships with the parties been apparent, that should temper the rulemakers' zeal for pursuing an all-encompassing, exhaustive disclosure requirement.

Another judge member disclaimed knowledge as to whether the 25% figure was "right," but stated that this figure was "not wrong." The member suggested that searching for the precisely "right" number was not worthwhile. Responding to Professor Garner's prior suggestion, this member warned against building into the rule any subjectivity that would allow a court to decide whether to require disclosure based on who the participants are. If a proposal is adopted, it should use an objective number rather than a moving target. As to the lookback period, the member suggested that the prior fiscal or calendar year would be more administrable than a moving 12-month period; the latter would require a lot of research and calculation.

A practitioner member acknowledged the focus on drawing a line between helpful disclosure requirements and unhelpful, unwarranted disclosure requirements. But the member also wondered whether a lower threshold might normalize disclosure, making it not such a negative thing. A lower threshold like 5% or 10% would generate a lot more disclosures, but such a disclosure would not necessarily discredit a brief as much as a disclosure in response to a higher threshold that is only infrequently met.

A judge member thought that a threshold above 25% would be too high. And if the threshold were set higher than 25%, a disclosure would really mark the amicus brief because it would be extremely unusual. The member also suggested that judges' views on the optimal level of disclosure are not the only consideration. Members of the public may not have the same information or reactions that judges do. Part of the value of the disclosures was to let the public know who is responsible for filing amicus briefs. This transparency concern is particularly strong when amicus filings are cited by judges as persuasive in their decisionmaking.

A practitioner member expressed doubt about the idea of normalizing disclosures. The purpose of a disclosure is to flag something relevant about a brief. The member questioned whether lowering the threshold would serve that purpose. Instead, the goal should be to identify a category of briefs to treat with caution.

Another practitioner member thought that more regulation of amicus briefs was not a good idea. If a relevant industry group files an amicus brief in a case on appeal, that tells the court that the industry is concerned about some issue—it does not matter only to the parties. The rule should encourage filing amicus briefs. Judges can pay attention to what they want to in those briefs. The member thought that 25% was the right threshold because it is objective and because, if a party is paying for 25% or more of the amicus organization's cost, it is largely a party-controlled organization. As to most big organizations that routinely file amicus briefs, the number would probably be 5% or less. The member also agreed that required disclosures may chill the filing of amicus briefs.

Professor Garner suggested that a rule requiring disclosure of "the extent to which" a party has contributed to the amicus could be combined with a provision stating a presumption that any contribution over 25% would be excessive. Judge Bates noted that this presumption would change the thrust of the rule by expressly stating how the court would view the brief. Judge Bybee did not think the Advisory Committee had been going in that direction; he could not remember a judge

having said anything like, "if the party contributes over 50%, I won't consider the brief." Instead, some judges have suggested that it is important to have more information, not less. Professor Hartnett agreed that the rule has governed only when disclosure is required; discounting a brief's weight has not been addressed in the rule's text. This kind of modification would significantly change how the rule operates.

Professor Hartnett sought more comment on the banding idea. He thought it might mitigate the risk of using a single number—if that number is too high, it works like an on–off switch; if too low, it does not give enough information because a court cannot tell how far the contribution amount is above the threshold. Banding would provide more information than a single threshold, while not requiring the same degree of precise calculation as the "extent to which" option. Would this idea work as a compromise?

Judge Bates agreed that using banding would require more information from an amicus than would a single percent threshold above which disclosure is required.

A practitioner member stressed that the disclosure requirement would need to include a floor beneath which disclosure is not required. This member suggested that, once there is a floor, having banding in addition would not do much work, especially if the floor is as high as 25%.

Another practitioner member liked the banding approach because it would provide more information to the courts and public. The question would then be where to start and end each band. More disclosure is better, and so long as it remains up to the judges to decide at what level a disclosure matters, then the rule introduces no presumption of taint.

A third practitioner member remarked that a member of a big amicus organization generally must undergo a rigorous application process before the organization will sign onto an amicus brief for that member. That process is useful because courts can then take that organization's reputation as a signal—if it signs a brief, then the issue is one that matters to more than just the litigants. The member liked the 25% threshold because it indicates that the amicus is not really a broad-based group that represents the industry. Lowering the threshold defeats the purpose of having amicus briefs and introduces a false perception of taint if there is a disclosure of a low percentage. The lower threshold would lead to too much micromanaging of amici. The member also expressed concern that a lower threshold could disadvantage plaintiff-side amici because bigger organizations tend to be on the defense side. And one can look at the website of a large organization to see if a party is a member.

An academic member expressed a preference for keeping the rule as simple as possible. That militates in favor of a single number. The member liked 25%—it is high enough that if an amicus is above that threshold, it will raise eyebrows. The difficulty with banding is that compliance could be complicated, particularly if there is no lower bound. Without a lower bound, if a party had bought a single table at a fundraiser for the amicus, the amicus would then have to divide the value of the contribution associated with buying that table by the amicus's overall revenue in order to determine the percentage value of its contribution. A disclosure requirement without a lower bound would discourage potential amici from filing. It would signal that courts do not want to hear their voices.

The conversation then turned to draft Rule 29(e). Judge Bybee introduced this draft rule, which appeared on page 137 of the agenda book. The draft rule would require an amicus to disclose any nonparty that contributed over $1,000 to the amicus with the intent to fund the amicus brief. Judge Bybee asked two questions: (1) Is the $1,000 figure the right threshold? This figure was meant to exclude disclosures for crowdfunded briefs. (2) Should the draft rule contain provisions like those in draft Rules 29(c)(3) and (c)(4), requiring disclosures of contributions even if they are not earmarked for funding an amicus brief?

Judge Bates remarked that a $1,000 cutoff, although high enough to address the crowdfunding issue, seems very low.

A judge member thought that this draft rule would require amici to make greater disclosures than parties themselves must. Parties may obtain funding from undisclosed sources, raising issues about third-party litigation funding. The draft rule overemphasizes the importance of amicus briefs and mistakenly suggests that courts are more concerned with who is speaking than with the merits of the argument. The member also thought that this is a policy question that should be deferred until the discussion of third-party litigation funding of parties; in the meantime, this member suggested, subpart (e) should be deleted from the draft. Professor Hartnett observed that the current rule requires disclosure if someone other than the amicus, its members, or its counsel contributed money that was intended to fund preparing or submitting the brief. The member acknowledged that fact, but argued that proposed subdivision (e) would heighten the issue.

Judge Bates remarked that there may be greater First Amendment issues in requiring disclosure of nonparty contributions than in requiring disclosure of party contributions.

A practitioner member stated that adopting draft Rule 29(e) would be a mistake. It would open up a hornet's nest concerning intentionality. How can you determine whether someone intended to fund a brief? Suppose an organization told potential donors the topics of ten amicus briefs it intended to file over the coming year. Or suppose that a donor bought a ticket to a dinner at which a representative of the organization discussed some of its amicus filings. The member also thought that $1,000 was a low threshold.

Another practitioner member commented that the innovation in draft Rule 29(e) is really about contributions by members of amicus organizations—there is already a disclosure requirement as to contributions by nonmembers. The member differentiated two types of amicus organizations: larger organizations with annual budgets that include a chunk of money for amicus briefs, and organizations (typically smaller) that "pass the hat" to fund a particular amicus brief. Draft Rule 29(e), this member suggested, would unfairly burden such smaller organizations by requiring them to make disclosures, whereas dues payments probably would not have to be disclosed. Draft Rule 29(e) would make it harder for those smaller amici to file briefs.

A judge member thought that the draft rule could lead to an escalation of corporate screens and shielding to evade required disclosures. A would-be funder might set up an LLC to make the donation; would the rule also have to require disclosure of the LLC's funding? This judge sees briefs from a number of amici for which the funding is unknown. The draft rule aims for more disclosure than is currently required for dark-money contributions to political campaigns. There is a public interest in disclosure, but there are practical limitations on what the committees can do.

The member cautioned against increasing the complexity of the disclosure scheme (for example, with banding)—such new hurdles could be leapt over as easily as the current ones.

A practitioner member supported omitting draft Rule 29(e). Congress, this member suggested, is concerned about parties, not nonparties. Nonparties do not implicate the same concerns. The member also noted that, under the current Rule (as well as under draft Rule 29(c)(2)), if a party contributes any money intended to fund an amicus brief, the fact of the contribution must be disclosed.

Judge Bates asked why, in draft Rule 29(d), the language is limited to only a *party*'s awareness. Draft Rule 29(c) is worded in terms of *party or counsel*; why should 29(d) be different? Judge Bybee agreed with that wording change and, more generally, thanked the Standing Committee for its input.

***Rule 39 (Costs).*** Judge Bybee briefly covered this and the remaining items. The Supreme Court suggested in *City of San Antonio v. Hotels.com, L.P.*, 141 S. Ct. 1628, 1638 (2021), that "the current Rules . . . could specify more clearly the procedure that . . . a party should follow" to bring its arguments about costs to the court of appeals. The real problem in this situation is a narrow one that is nevertheless important in some big cases. It involves the disclosure to parties of the consequences for costs on appeal if a supersedeas bond is filed or another means of preserving rights pending appeal is used. A subcommittee is currently working on this issue. It may be useful for the Appellate Rules Committee to coordinate with the Civil Rules Committee to see whether the Civil Rules might also require changes.

***Form 4 (Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis ("IFP")).*** Form 4 concerns the disclosures required of a party seeking IFP status on appeal. The Advisory Committee has tried to simplify the form. Many of the circuits have ignored the form for years and have their own forms. The Advisory Committee is not purporting to change that fact, only to simplify the current national form. Also, the Supreme Court has incorporated the form by reference in Supreme Court Rule 39.1, so it would be advisable to ask if the Court has any input on changing the form.

***Appellate Rule 6 (Appeal in a Bankruptcy Case) and Direct Appeals in Bankruptcy.*** Judge Bybee adverted briefly to this project, which dovetails with the Bankruptcy Rules Committee's project (discussed later in the meeting) to amend Bankruptcy Rule 8006(g) to clarify that any party may request permission to appeal directly from the bankruptcy court to the court of appeals. He noted that the Appellate and Bankruptcy Rules Committees are coordinating their work on Bankruptcy Rule 8006(g) and Appellate Rule 6.

***Striking Amicus Briefs; Identifying Triggering Person.*** Rule 29(a)(2) allows a court to refuse to file or to strike an amicus brief that would lead to a judge's disqualification. A suggestion was made to modify this rule to require the court to identify the amicus or counsel who would have triggered a disqualification. After extensive discussion, the Advisory Committee removed this item from its agenda.

***Appeals in Consolidated Cases.*** A suggestion to amend Rule 42 arose following *Hall v. Hall*, 138 S. Ct. 1118 (2018). After thorough discussion, the Advisory Committee removed this item from its agenda.

Judge Bates asked for comments on the other information items outlined in the Advisory Committee's report. Hearing none, he invited the Bankruptcy Rules Committee to give its report.

## REPORT OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

Judge Connelly and Professors Gibson and Bartell presented the report of the Advisory Committee on Bankruptcy Rules, which last met in Washington, D.C., on September 15, 2022. The Advisory Committee presented one action item and three information items. The Advisory Committee's report and the draft minutes of its last meeting were included in the agenda book beginning at page 175.

After Judge Connelly recognized the work of Judge Dennis Dow, the Advisory Committee's previous chair, the committee began its report.

*Action Item*

***Publication of Proposed Amendment to Official Form 410 (Proof of Claim).*** Judge Connelly reported on this item. The Advisory Committee sought the Standing Committee's approval to publish for public comment an amendment to Official Form 410. A creditor must file this form for the creditor's claim to be recognized in a bankruptcy case. Official Form 410 contains a field for a uniform claim identifier ("UCI"), which a creditor may fill in for electronic payments in Chapter 13 cases. The Advisory Committee has proposed a revision to remove both the specification of electronic payments and the reference to Chapter 13 cases, allowing a creditor to list a UCI for paper checks or electronic payments in any bankruptcy case.

Upon motion by a member, seconded by another, and without dissent: **The Standing Committee unanimously approved the publication for public comment of the proposed amendment to Official Form 410.**

*Information Items*

***Rule 8006(g) (Certifying a Direct Appeal to a Court of Appeals).*** Professor Bartell reported on this item. As amended in 2005, 28 U.S.C. § 158 provides for direct appeals of final judgments, orders, or decrees from the bankruptcy court directly to the court of appeals upon appropriate certification and subject to the court of appeals' discretion to hear the appeal. Bankruptcy Rule 8006(g) requires that, within 30 days after certification, "a request for permission to take a direct appeal to the court of appeals must be filed with the circuit clerk in accordance with" Appellate Rule 6(c). The bankruptcy rule is in the passive voice and does not specify who may file that request for permission. Bankruptcy Judge A. Benjamin Goldgar proposed an amendment to clarify what he—and the Advisory Committee—believed to be the meaning of the rule: any party, not just the appellant, may file the request for permission.

At Professor Struve's request, the Bankruptcy and Appellate Rules Committees have worked together to draft amendments to ensure that Rule 8006(g) is compatible with Appellate

Rule 6(c). The Bankruptcy Rules Committee has approved an amendment to Rule 8006(g) that was the product of that collaborative effort. Because the Appellate Rules Committee has created a subcommittee to consider related amendments to Appellate Rule 6(c), the Bankruptcy Rules Committee will wait to seek approval for publication of amended Rule 8006(g) until publication is also sought for an amendment to the appellate rule.

***Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case).*** Professor Gibson reported on this item. Bankruptcy Rule 3002.1 requires the holder of a mortgage claim against a Chapter 13 debtor to provide certain information during the bankruptcy case. This information lets the debtor and the trustee stay up-to-date on mortgage payments. Significant proposed amendments to Rule 3002.1 were published in August 2021, and the Advisory Committee received very valuable comments. The Advisory Committee has improved the proposal in response to those comments. Because the post-publication changes are substantial, re-publication would be helpful. The Advisory Committee still needs to review comments on proposed amendments to related forms. The committee will likely seek approval to republish the amended rule and related forms at the Standing Committee's June 2023 meeting.

***Electronic Filing by Self-Represented Litigants.*** Professor Gibson reported on this item as well. She agreed with Professor Struve that the Advisory Committee had a positive response to the prospect of expanding electronic filing by self-represented litigants. Professor Gibson noted her surprise at this response, given that bankruptcy courts are currently the least likely to allow self-represented litigants to file electronically. She concurred with Professor Struve that there were a couple of committee members who raised concerns, particularly about improper filings. Other committee members noted that self-represented litigants could make improper filings even in paper form. The Advisory Committee needs to think about the serious privacy concerns raised earlier. But, overall, the Advisory Committee supported looking at how to extend electronic-filing access to self-represented litigants in coordination with the other Advisory Committees.

Judge Bates opened the floor to questions or comments regarding the Advisory Committee's report. Hearing none, he invited the Civil Rules Committee to give its report.

## REPORT OF THE ADVISORY COMMITTEE ON CIVIL RULES

Judge Rosenberg and Professors Marcus, Bradt, and Cooper presented the report of the Advisory Committee on Civil Rules, which last met in Washington, D.C., on October 12, 2022. The Advisory Committee presented three action items and several information items. The Advisory Committee's report and the draft minutes of its last meeting were included in the agenda book beginning at page 203.

After Judge Rosenberg recognized the work of Judge Robert Dow, the Advisory Committee's previous chair, and welcomed Professor Bradt as the new Associate Reporter, the committee began its report.

*Action Items*

***Publication of Proposed Amendments to Rules 16(b)(3) (Pretrial Conferences; Scheduling; Management) and 26(f)(3) (Duty to Disclose; General Provisions Governing***

***Discovery).*** Judge Rosenberg reported on this item. The Advisory Committee sought the Standing Committee's approval of proposed amendments to Rules 16(b)(3) and 26(f) for publication for public comment. These amendments would require the parties to focus at the outset of litigation on the best timing and method for compliance with Rule 26(b)(5)(A)'s privilege-log requirement and to apprise the court of the proposed timing and method. It can be onerous to create and produce a privilege log that identifies each individual document withheld on privilege grounds. The original submissions advocated revising the rule to call for the identification of withheld materials by category rather than identifying individual documents. The Advisory Committee examined that proposal as well as competing arguments for logging individual documents. Judge Rosenberg noted that there is a divide between the views of "requesting" and "producing" parties. The Advisory Committee concluded that the best resolution was to direct the parties to address the question in their Rule 26(f) conference, which would give the parties the greatest flexibility to tailor a privilege-log solution appropriate for their case. Thus, the proposed amendment to Rule 26(f)(3)(D) would add "the timing and method for complying with Rule 26(b)(5)(A)" to the list of topics to be covered in the proposed discovery plan. The proposed amendment to Rule 16(b)(3)(B)(iv) would make a similar addition to the list of permitted contents of a Rule 16(b) scheduling order. The proposed committee notes to the amendments stress the importance of requiring discussion early in the litigation in order to avoid later problems. The committee note to the Rule 26 amendment also references the discussion (in the 1993 committee note to Rule 26(b)(5)(A)) of the Rule's flexible approach.

Professor Cooper added that the privilege-log problem stems from Rule 26(b)(5)(A)'s text, which requires the withholding party to "describe the nature of" the items withheld "in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim." That is a beautiful statement of the rule's purpose but it gives no guidance on how to comply. The Civil Rules Committee's Discovery Subcommittee acknowledged the complex policy concerns at play and it consulted widely and at length. The picture that emerged is one in which the producing parties can face significant compliance costs, while the receiving parties are concerned about overdesignation and that the descriptions they receive do not enable them to make informed choices about whether to challenge an assertion of privilege. In addition, problems may surface belatedly because the privilege log is provided late in the discovery process. The subcommittee realized that there would be no easy prescription for every case, and it concluded that parties are in the best position to solve the problem by working together in good faith. The proposed amendment adds only a few words, but it is intended to start a very important process.

Professor Marcus noted that the Advisory Committee has heard from many commenters. The amendment had evolved quite a bit and was now ready for public comment.

Judge Bates observed that, although the changes to the rules' text are modest, the proposed amendments are accompanied by three or four pages of committee notes. Some of that note discussion is historical, and some is explanatory, but some looks like best-practices guidance. He wondered whether this was unusual or a matter of concern.

Professor Marcus acknowledged the importance of that concern. He noted that this is a concise change to a rule that has a large body of contention surrounding it. Because the proposed amendment asks parties to discuss something that is not defined in the rule with great precision, it seems helpful for the committee note to provide some prompts for that discussion. Public comment

often focuses on the committee notes, and such comment might prompt the Advisory Committee to revise the note language after publication. But it seems more desirable to put some guidance into the proposed note rather than to provide a Delphic rule with no guidance.

Professor Cooper added that this issue was considered at the Advisory Committee meeting. The practice on committee notes has varied over time. For example, the 1970 committee notes to the discovery-rule amendments would put a treatise to modest shame, and served a good purpose at the time. And courts of appeals have said that committee notes can provide useful guidance for interpreting the rules. The note is subject to polishing, and public reaction may stimulate and help focus that polishing. It is challenging at best to improve on the present text of Rule 26(b)(5)(A)—how does one express in rule text that what may work in one case may not work in another? The note grew to these proportions in order to capture how the parties might try to alleviate problems that have emerged in practice but that are too varied and complex to incorporate into the rule's text.

Judge Bates expressed concern that, even if the note spurs more comments, because this is a contentious issue, the comments would reflect competing views of what the note should contain. Would the Advisory Committee then intend to resolve those competing views in deciding what goes in the committee note in terms of what is or isn't the best practice? Publication could make this process more complex, especially with so many bits of best-practice advice offered on a subject that is important to many litigants and counsel.

A practitioner member thought that the rule text was elegant and salutary and also noted appreciation of the existing rule's cross-reference to Evidence Rule 502. The long committee note would create the attention that the Advisory Committee wants, would focus practitioners on how to make the process work, and would address the existing problem of privilege logs coming late in the discovery process.

A judge member agreed with Judge Bates and stated that his initial reaction had been that the Standing Committee was being asked to approve a committee note, not a rule change. But then, the member said, he perceived a linkage between the rule text and the committee note. Because the rule was intended to be flexible, not one-size-fits-all, that is why it should be on the agenda early in the case. But the committee note could be greatly reduced to something like: "This was not intended to be an inflexible, one-size-fits-all rule. *See* the 1993 committee notes. This issue should be discussed early on in litigation, hence the proposed change." That might more appropriately focus the public comments.

Another practitioner member thought that the proposed amendment to the rule's text was an excellent addition that would treat both plaintiffs and defendants fairly. The committee note serves a purpose and is evenhandedly written. The note would help parties in privilege-log negotiations to push back against a view that all communications must be logged. A short note runs the risk of accomplishing little. This longer note would allow for good discussion between parties in order to alleviate costs and burdens.

A third practitioner member liked the rule change itself but agreed that the committee note was on the long side. The note is evenhanded but reads like something that would be better found in a treatise, not a committee note. There would be some benefit to stripping some examples out

of the note and allowing litigants and courts to develop the practice. Over time, a treatise would capture the best practices.

Professor Coquillette congratulated the Advisory Committee on an excellent rule, but agreed that the notes were too long and contained too much practical advice. The point is often made that lawyers look to treatises for practical advice. But those sources are behind paywalls, and some lawyers do not even read committee notes. So substantive changes should be in the rule text. Professor Coquillette observed that the committee notes could be revised after public comment.

A judge member suggested striking language in the draft committee note to the amendment to Rule 16(b)(3). Specifically, the clause "these amendments permit the court to provide constructive involvement early in the case" (agenda book page 211, lines 265–66) is inaccurate because a court does not need the rule's permission to be involved in discussions about complying with the privilege-log requirement. Professor Marcus asked the member whether the word "enable" would be better than "permit." The member thought that "enable" might still carry the implication that the court does not otherwise have the authority to manage the case by talking to counsel about what should be in a privilege log. Another judge member suggested replacing "permit" with "acknowledge the ability of."

A practitioner member offered suggestions for shortening the committee note to the Rule 26(f) amendment. The initial paragraphs were background. The paragraph starting on page 209 at line 200 recounted privilege-log practice. The next paragraph listed some examples that were probably worth having in the note. The paragraph discussing technology was useful to have in the note. Then there were the paragraphs about timing of privilege logs. The current draft's ten to twelve paragraphs, this member suggested, could probably be reduced to about four.

Judge Bates asked the representatives of the Advisory Committee whether they wanted to proceed with seeking the Standing Committee's approval for publication or to return to the Advisory Committee with the Standing Committee's feedback first. After conferring, Judge Rosenberg announced that she and the reporters would return to the Advisory Committee and the appropriate subcommittee with the Standing Committee's comments. The Advisory Committee would bring the proposed amendment back to the Standing Committee, with any warranted changes, at its June meeting. **No further action was taken on this item at this time.**

***Appeals in Consolidated Cases.*** Judge Rosenberg reported on this item. This suggestion arose from *Hall v. Hall*, 138 S. Ct. 1118, 1131 (2018), in which the Supreme Court observed that if its holding regarding finality of judgments in actions consolidated under Rule 42(a) "were to give rise to practical problems for district courts and litigants, the appropriate Federal Rules Advisory Committees would certainly remain free to take the matter up and recommend revisions accordingly." After extensive discussion and a thorough FJC study by Dr. Emery Lee, a joint subcommittee of the Appellate and Civil Rules Committees found that there was not a sufficient problem to warrant a rule amendment—that is, litigants were not missing the deadline by which to appeal a final judgment in a consolidated action. The item was therefore removed from the joint subcommittee's and the Civil Rules Committee's agenda.

Judge Rosenberg recommended that the joint subcommittee be dissolved. The Appellate Rules Committee's representatives concurred. Judge Bates noted that he was unsure whether the

joint subcommittee had been formed by a vote of the Standing Committee. Hearing no questions or comments about this item from the Standing Committee, Judge Bates asked whether anyone objected to removing the *Hall v. Hall* issue from ongoing review by the joint subcommittee and the Advisory Committees and dissolving the joint subcommittee. **Without objection, the joint subcommittee was dissolved.**

***Presumptive Deadline for Electronic Filing.*** Judge Rosenberg briefly addressed this item, noting that the Advisory Committee had recommended that the proposal be removed from its agenda. But, based on Judge Bates's comments from earlier in the meeting, the joint subcommittee would reconsider the suggestion. **No further action was taken on this item at this time.**

*Information Items*

***Multidistrict Litigation ("MDL").*** Judge Rosenberg introduced this item by remarking that the MDL Subcommittee had first been formed in 2018 in response to comments about how important MDLs had become. No decision has yet been made on whether to recommend a rule change addressing MDLs. The subcommittee has instead focused on the question: if there *were* a rule change, what would the best possible rule be? Every MDL is different, and that has been the guiding principle throughout the iteration of different proposals. The subcommittee has been mindful of the importance of flexibility and of the many factors that bear on MDLs. The subcommittee explored putting MDL provisions into Rules 16 and 26 before ultimately developing the idea for a new Rule 16.1.

There are two versions of the draft rule, currently called Alternatives 1 and 2. The Advisory Committee has not yet considered and discussed the feedback of participants at the transferee judges' conference. Alternative 1 was well-received at the transferee judges' conference by many of the same judges who did not support an MDL-specific rule change four years ago.

MDLs make up anywhere from one-third to one-half of the federal docket. There are many new transferee judges who need to be educated about these cases. These judges also appoint new attorneys to leadership in MDLs, and these attorneys need to have proper direction and expertise. The *Manual for Complex Litigation* is being updated, but even if it were already up-to-date, people always begin by looking at the rules. So there needs to be something about MDLs in the rules.

The draft rule is designed to maintain flexibility. It has a series of guiding principles or prompts. Some prompts will apply in a specific MDL, but others may not. A judge need not go through every point listed in the draft rule. The goal is to put these points on the radar of the judges and counsel so that they start active case management early on.

Professor Marcus remarked that input from the Standing Committee would be extremely valuable to the subcommittee, especially as to the list of topics set out in Alternative 1 on page 219 of the agenda book. Judge Rosenberg agreed that the subcommittee would welcome comments on both Alternative 1 and Alternative 2. The goal is to have a more refined version to take to the full Advisory Committee meeting in March and potentially to the Standing Committee for approval for publication in June.

Judge Bates opened the floor for comments and questions.

An academic member noted that the Standing Committee had previously debated whether guidance on MDLs should go in a rule or in some other resource. This member queried whether it might make sense to wait to see the update of the *Manual for Complex Litigation*. The member suggested that Alternative 1's long list looked more like something that would go in the *Manual* than like rule text. Alternative 2 looked more rule-like, but this member would be more comfortable adopting Alternative 2's more spare approach if more detailed guidance could be found elsewhere, such as in the *Manual*. The academic member also noted others' suggestions that the rulemakers address the question of authority for some of the things that judges have done in managing MDLs, and the member questioned whether either alternative draft tackled that issue.

Judge Bates remarked that the next edition of the *Manual* would be a substantial update and would take a long time to complete. Judge Cooke estimated that it would take two to three years, probably closer to three years. Judge Bates noted that, given the three-year timeline for rule changes, it would take about six years for anything like draft Rule 16.1 to come into effect if the committees awaited the new *Manual*.

Judge Rosenberg observed that the *Manual* is not a quick read, and not every judge has or needs to have a desk copy. But as to whether this is a best-practices or a rules issue, she agreed with former chair Judge Dow's emphasis on making sure to put things in the rules—not every lawyer or judge reads the *Manual* or other resources, but everyone looks at the rules.

A judge member stated that a rule along the lines of Rule 16.1 would be helpful to judges and expressed a preference for Alternative 1 because it provides the information a court would need without having to read through a whole manual. It gives the court a lot of ideas and factors to consider in managing the case. Alternative 2 is too broad and vague to be helpful for a first-time MDL judge. Addressing the bracketed items in Alternative 1, such as the reference to a common benefit fund, the member expressed support for including those items in order to spark thought about what needs to be discussed.

Regarding Alternative 1, another judge member asked how the report called for by the rule would address items 6 through 14 if items 1 through 5 had not yet been resolved. If it is unknown who is leadership counsel or what leadership counsel's authority is, who engages in the discussion of items 6 through 14? Judge Rosenberg responded that draft Rule 16.1(b) discusses the designation of coordinating counsel for the preconference meet-and-confer. Coordinating counsel will not necessarily become permanent leadership counsel. Interim coordinating counsel and the judge can identify issues on which the judge needs feedback. These decisions can be changed, perhaps when leadership counsel is appointed or there is a major development in the MDL. This is not uncommon, that decisions made by leadership counsel need to be changed along the way. The rule contemplates that court-appointed coordinating counsel will help with the meet-and-confer and reporting to the court at the first conference on the first 14 issues or any additional issues the court deems necessary. The judge member asked what happens if there is dissension on the plaintiff side. Can coordinating counsel commit to anything in items 6 through 14? What if plaintiffs' counsel is split 50/50 on those issues?

To answer this question, Judge Rosenberg asked a practitioner member to talk about that member's experience with the issue. The member commented that there have been several large MDLs in which the court has appointed interim coordinating counsel to get the lawyers talking to

each other and resolve or narrow the issues. In situations where there is not unanimity on one side on some procedural priority, coordinating counsel presents the differing views to the court in an organized fashion at the initial conference. That doesn't give coordinating counsel absolute authority to make decisions unless there is a consensus. The emphasis is on the organizational and coordinating functions—to let the court see the range of views and make decisions in an orderly way.

Professor Marcus commented that the rule lets the judge direct counsel to report about the topics listed on page 219 of the agenda book. That would help orient the judge to the case and focus the lawyers on things that matter, even if they do not agree. That is better than a free-for-all. And requiring the lawyers to address relevant issues early on could help to avoid situations where the judge makes decisions based on incomplete information and later comes to question them, as Judge Chhabria described concerning his experience with the *Roundup* case. It may also be sensible to soften the language in proposed Rule 16.1(d) on page 220 to make clear that the management order after the initial conference is subject to revision. Overall, the point is to give the judge guidance in overseeing the case.

A judge member expressed continuing skepticism. There is some merit to the question about the court's authority. But the member asked how often transferee courts are reversed for acting without authority. If there is not a problem, perhaps not so much work needs to be done on a solution. This judge noted that the choice between the two alternative drafts only arises if one is first persuaded that a rule is needed at all.

Judge Bates observed that there might have been an authority question in *In re Nat'l Prescription Opiate Litigation*, 976 F.3d 664 (6th Cir. 2020).

A practitioner member stated that he has a bias because his firm litigates many MDLs on the defense side. The member's sense is that the plaintiffs' bar thinks that the MDL system basically works okay, while the defense bar does not think it is working, at least not in the big pharmaceutical MDLs. Rather, the system leads to settlements of meritless cases for billions of dollars. It is difficult for the rulemakers to work in an environment like that, where some people are relatively happy with the system and some are not. Both alternatives, especially the longer Alternative 1, are really about the plaintiffs' side. They may be potentially helpful, but they do not speak to defense concerns. The primary defense concern is that large MDLs are not vehicles for consolidating existing cases so much as encouraging more cases to be filed. The language coming closest to speaking to defense-side concerns is on page 219 of the agenda book, lines 568–69, about creating an avenue for vetting. But the proposed language ("*[w]hether the parties should be directed to* exchange information about their claims and defenses at an early point in the proceedings") was too agnostic. The member suggested considering deleting "whether the parties should be directed to" and starting with "exchange of information about". At least from an efficiency standpoint and from the defense bar's perspective, vetting is important.

The member also commented that, in previous versions, there had been debate about whether the exchange should be of "information" or "information and evidence." The member agreed that "evidence" seems awkward. But "information" is amorphous and may not be enough to determine whether cases in an MDL are meritorious. One suggestion is "exchange information

about the factual bases of their claims and defenses." That gets at the "evidence" concept without using the word "evidence."

Another practitioner member endorsed the idea of separating items 1 through 5 from items 6 through 13 in Alternative 1. This member expressed concern about the application of Alternative 1 before lead counsel is appointed, because then it would become an opportunity for would-be lead counsel to pontificate about the issues in items 6 through 13—that puts the cart before the horse. One of the most important things in an MDL is the appointment of lead counsel. The rules do not limit a judge's considerations in making that appointment. Does the judge consider the size of the claim? Counsel's experience level? The member has a bias toward the Private Securities Litigation Reform Act because it sets a process and criteria for appointing lead counsel. The member thought that transferee judges like that they can pick whom they want for lead counsel. The member predicted that this would become a controversy one day in a big MDL because there are no standards for that appointment. Perhaps a future Advisory Committee will add meat to that bone, but many of the topics listed in the current draft rule are obvious things that any competent MDL judge or defense counsel would want to consider.

A judge member thought that Alternative 1 is a particularly good framework to organize an MDL and indeed any complex case. The member suggested two big-picture additions. First, direct the parties in preparing their report and discussing the case to adhere to the principles of Civil Rule 1—just, speedy, and inexpensive dispositions. Counsel are not always aware of that rule. Second, there should be an emphasis on early determination of core factual issues—this might be early vetting—and core legal issues. Not necessarily dispositive legal issues, but core issues like a *Daubert* motion, an early motion in limine, or an early motion for summary judgment that will shape the law applicable to the case. Civil Rule 16(c)(2) concludes its long list of matters for consideration at a pretrial conference with "facilitating . . . the just, speedy, and inexpensive disposition of the action," thus referencing Rule 1. But because that is so important in a complex case, the reference to Rule 1 should be at the outset of the new rule, followed by a direction to focus on core issues of fact and law.

Judge Bates asked what the Advisory Committee thinks about the issue of settlement. There are questions concerning the court's role and authority, and settlement is a big issue in MDLs. Transferee judges historically have had different levels of involvement. Some think they have no authority to get involved. That is unlike class actions, where Rule 23 sets forth the judge's very involved oversight role. For normal civil cases, Rule 16(c)(2) tells the judge to focus on settlement and to use special procedures to assist in settlements. The question is what the proposed rule says about settlements in MDLs. In Alternative 1 on page 219, at lines 557–58, there is a reference to addressing a possible resolution. In Alternative 2 on page 220, line 598, there is also a reference to possible resolution. What is the message being sent to the bar and bench if that is where settlement winds up in the rule, especially compared to the more fulsome requirement in Rule 23? It is important to write these rules for the less-experienced judges and practitioners.

A practitioner member thought that another provision could be added to deal specifically with settlement—assessing whether there is a method for a prompt resolution of the claims. Over the years, more would probably be added to the rule, but something specifically dealing with considerations of early resolution, and settlement generally, would certainly be worth listing. But the problem of attorney jousting before the appointment of leadership counsel will still arise.

Another practitioner member thought that different language could solve the sequencing issue. The language would state that not all the considerations should be considered or decided at one initial conference; rather, they should be addressed in a series of conferences. Experienced MDL judges know that case management is an ongoing, iterative process; a single pretrial order is not enough. This language could avoid some confusion about how many of the considerations in the rule need to be addressed at one time. It would tell the court that this is a menu of items and let the court determine which are the priority items for the first conference and which to address in an ongoing fashion.

The previous practitioner member reiterated that, unless leadership counsel is appointed early, it makes no sense to deal with the other topics. It would be helpful, especially to inexperienced judges, to make clear in the rule that the appointment of leadership counsel should be dealt with up front.

Judge Rosenberg remarked that the subcommittee spent a lot of time on the settlement issue. Transferee judges thought that—unlike class actions, which have unrepresented parties—judges did not and should not manage, oversee, or approve settlements in MDLs. Some lawyers who looked at the draft rule may have had similar reactions. The subcommittee ultimately decided to take out that language. Still, it is important for the MDL process to have integrity and transparency, and so the subcommittee considered how a judge could ensure the process has those qualities without having the authority to approve a settlement. The solution was to give the judge a more proactive role in all aspects of case management, including appointing leadership counsel, determining leadership counsel's responsibilities, and having a regular reappointment process. Ensuring that the process is fair can promote trust in the outcome.

Judge Bates acknowledged the distinction between managing the process and reviewing the outcome, but suggested that the draft rule did not contain much guidance about what the judge should consider in appointing leadership counsel or about what other parties and counsel should be doing to create a process that will lead to a fair and just resolution of the claims.

Professor Marcus added that, with respect to settling individual claims asserted by claimants represented by other lawyers, appointment of leadership counsel is dicey. The subcommittee has given that scenario a lot of thought and discussion, including whether there could be a process by which a judge could "approve" the negotiation process for any settlements that come about. That is also dicey. On page 219 of the agenda book, in item 13, in brackets, another possibility is mentioned, which is to use a master to assist with possible resolution. Another question is: what happens if leadership counsel's own cases are settled—must different leadership counsel be appointed? MDLs involve different situations from Rule 23(e), and there is a "third-rail" aspect to this subject, so it is very valuable to have the Standing Committee's feedback while addressing it.

Judge Bates asked whether special masters have been widely used in managing and reaching settlements in MDLs. A practitioner member said yes, absolutely. In some of the biggest cases, special masters run the whole settlement process. Judge Bates asked if such a master reports to the court. A practitioner member gave an affirmative answer to this question, but remarked that these masters are not typically Rule 53 special masters. They are called "settlement masters" or "court-appointed mediators." It is an ad hoc appointment in terms of the roles and duties, but those

duties do typically include reporting to the court. The extent to which the master can report to the court on the substance of the negotiations is usually worked out among the parties. In the *Opiate* MDL, there were Rule 53 appointments of special masters who ultimately became involved in mediation and settlement. In the *Volkswagen* MDL, Judge Breyer invented a position called "settlement master," which was not based on Rule 53 but had many but not all of the same responsibilities and roles. Judge Breyer made the appointments after requesting input from the parties on whether to appoint a master and, if so, whom. The court need not follow the parties' recommendations, but in the member's experience, this topic is discussed with the parties and the court's determinations do not come as a surprise.

Judge Bates thought that judges who appoint masters would communicate with them. Should the master's reporting duty to the judge be one of the considerations under the rule?

Judge Rosenberg mentioned that the subcommittee had received feedback from some groups that did not like having the words "special master" in the draft rule. It might create a presumption that there should be a special master, even if not everyone wants one. This led to some discussion, and some thought it might be better to have the words "special master" in the rule so that the parties will talk about it, even if they disagree.

Judge Bates asked whether the rulemakers should be careful about referring to the appointment of a "special master." Might the reference be viewed as authorizing something outside of Rule 53? He intended no criticism of what any judge has done in the MDL process, but he asked whether the rulemakers want to give, through a casual reference in item 13 of a laundry list, an imprimatur to the idea that a judge can say, "I want a settlement master. Rule 53 doesn't fit, so I'm just going to create this role on my own."

Judge Rosenberg responded that the subcommittee has discussed this topic but has not yet brought it to the full Advisory Committee. The subcommittee is working on tweaking the language in response to feedback on that issue and others. As another example, in line 570 of the report in the agenda book, there is a reference to a "master complaint." The rules do not provide for a master complaint, but the Supreme Court has referred to master complaints, and so has the subcommittee. One piece of feedback was that the term should not be used. Does using it somehow give credibility to a form of complaint that the rules otherwise do not mention?

Judge Bates commented that one could go pretty far back in this line of thought. The rules do not authorize the appointment of leadership counsel, for example. There are a lot of things that may not have a specific basis in the existing rules.

A judge member noted that the draft rule does not make any reference to the transferor court. It rarely happens that the case is sent back, but the MDL framework does contemplate that the work of the transferee court ends at some point. An item could be added to suggest that the transferee court and lawyers should consider when a case should be sent back to the transferor court.

Professor Cooper commented that a suggestion had arisen that the rule should address remand. But it was unclear whether the suggestion meant addressing motions to remand to state court, in cases plaintiffs thought improperly removed, or remand to transferor courts.

The judge member thought that it sounds like there is a never-ending list of items that could be considered or called into question. At what point do we return to the concept of "first do no harm"? Is there a need for this rule? What is its usefulness?

Professor Marcus commented that there has been a decades-long debate about whether the transferor court, if a case goes back, can simply start from scratch and throw out what the transferee judge did with the case. Putting a time limit on transferee activities might produce some behaviors that should not be encouraged. Also, as Professor Cooper said, remand means two different things here. Under 28 U.S.C. § 1407, the Judicial Panel on Multidistrict Litigation ("JPML") has authority to remand to the transferor court, but the JPML usually awaits a suggestion from the transferee judge that this would be desirable. The transferee judge cannot do this unilaterally.

Judge Bates commented that there are some things, not listed in the draft rules, that might occur later on before the transferee judge, particularly bellwether trials. If the draft rule is viewed as a continuing conference obligation, should it address other items, such as how to manage and sequence any bellwether proceedings?

Judge Rosenberg responded that bellwether management was not included because it is far along in the MDL process and might be outside the realistic scope of what can and should be discussed in the early conferences.

Professor Marcus added that there are also various views about whether bellwethers are useful. It is probably unwise to urge the judge to map out possible use of bellwethers at the start of an MDL. He predicted that any rule will say that, except for extremely simple and small MDLs, one conference is not enough, and the management plan must be revisited as things move forward. So the rule's focus will probably be on the initial exercise, and the expectation will be that judges continue to oversee other events as they become timely. Bellwethers might be in that latter category.

Judge Rosenberg thanked the Standing Committee for its feedback.

***Rule 41(a) (Dismissal of Actions).*** Judge Rosenberg reported on this item. The Advisory Committee formed a subcommittee to address a conflict about the scope of Rule 41(a)(1)(A), which allows a plaintiff to voluntarily dismiss without prejudice an "action" without obtaining a court order or the defendants' consent. The subcommittee's research showed that courts approach Rule 41 dismissals in different ways. The primary disagreement is whether Rule 41(a)(1)(A) requires dismissal of an entire action against all parties or whether it may be used to dismiss only certain claims or only claims against certain parties. The subcommittee has not reached a consensus on whether to pursue an amendment or what amendment to propose. An additional wrinkle is Rule 15, through which a plaintiff can amend a complaint to remove certain claims or defendants. The subcommittee is considering whether Rule 15 should be the vehicle by which a party should dismiss something short of the entire action.

Judge Bates remarked that this is a complex issue, and he solicited comments or feedback from the Standing Committee. Hearing none, Judge Rosenberg turned to the remainder of the report, and invited Professor Cooper to present the next item.

***Rule 7.1 (Disclosure Statement).*** Professor Cooper addressed two suggestions made to the Advisory Committee about recusal disclosures. One suggestion, about "grandparent corporations," contemplates a company that owns a stake in a second company, which in turn has a stake in a third company. If, say, Orange Julius is a party to an action, then the current rule requires it to disclose that Dairy Queen is its owner. But the rule does not require Orange Julius to disclose that Berkshire Hathaway owns Dairy Queen. So if the judge in the action owns shares of Berkshire Hathaway, that judge may not have notice of a potential financial interest in the case's outcome. Should something be done to address this in the rule?

The other suggestion proposed a rule directing all parties and their counsel to consult the assigned judge's publicly available financial disclosures. The parties would either flag any interests that may raise a recusal issue or certify that they have checked and do not know of any. The Advisory Committee has not really dived into this. Rule 7.1 covers only nongovernmental corporate parties. There are all sorts of business organizations with complicated ownership structures that may involve interests a judge is not aware of. Should the Advisory Committee just say it is too complicated to try to go further than corporations?

In response to a question posed by Professor Cooper, Judge Bates suggested that, unless the Appellate or Bankruptcy Rules Committees feel otherwise, it makes sense for the Civil Rules Committee to take the lead in considering proposed amendments to Rule 7.1.

***Other Items Considered.*** At this point, Judge Bates opened the floor for any remaining issues raised in the Civil Rules Committee's report. He asked a question about service awards for class-action representatives. Does the Advisory Committee view this issue as a matter of procedure or of substantive law? Judge Rosenberg responded that the issue was not a subject of much discussion at the last Advisory Committee meeting. Professor Marcus thought that there was no need to worry about the issue yet. There was a pending certiorari petition on the issue, so there might be more to learn by waiting.

Professor Marcus turned to Rule 45, about which a question had arisen: what does it mean to "deliver" a subpoena? By hand? By email? It may be that, in civil litigation, counsel can work this out. Is it worth trying to devise specifics on a method of delivery?

A judge member drew attention to the information item on standards and procedures for deciding in forma pauperis ("IFP") status, and suggested that that item warranted action. The member remarked that a *Yale Law Journal* article had described disparate practices on IFP status, which raised important issues of access to justice. The Appellate Rules Committee is looking at a standardized form for IFP status on appeal. The member suggested that someone should review this—if not the rulemakers, then a different committee of the Judicial Conference.

Judge Bates commented that the current view of the Advisory Committee was that it was not going to take any specific action on standards for IFP status. If the Rules Committees are not going to look further at this, should they encourage another Judicial Conference committee to do so? The only other logical Judicial Conference committee is CACM. Judge Rosenberg remarked that there is an Administrative Office pro se working group that may also be appropriate. Judge Bates suggested that perhaps the rulemakers could communicate to these entities that the Advisory Committee is not going to do anything with the topic for now but views it as an important question.

Another judge member informally asked the Advisory Committee to consider whether there is a need to address the Supreme Court decision in *Kemp v. United States*, 142 S. Ct. 1856 (2022), which held that a judge's error of law is a "mistake" under Rule 60(b).

***Items Removed from Agenda.*** Judge Rosenberg concluded by noting items removed from the Advisory Committee's agenda. These included proposed amendments to Rule 63 (Successor Judge), Rule 17(a) (Real Party in Interest) and Rule 17(c) (Minor or Incompetent Person). There were no questions or comments from the Standing Committee on these items.

## REPORT OF THE ADVISORY COMMITTEE ON CRIMINAL RULES

Judge Dever and Professors Beale and King presented the report of the Advisory Committee on Criminal Rules, which last met in Phoenix, Arizona, on October 27, 2022. The Advisory Committee presented two information items and no action items. The Advisory Committee's report and the draft minutes of its last meeting were included in the agenda book beginning at page 297.

*Information Items*

***Rule 49.1 (Privacy Protection for Filings Made with the Court).*** Judge Dever reported on this item. He explained that the Advisory Committee had considered and decided to remove from its agenda a proposal by Judge Furman regarding Rule 49.1. The rule's committee note refers to 2004 guidance from CACM that certain documents should remain confidential and not be made part of the public record. In *United States v. Avenatti*, 550 F. Supp. 3d 36 (S.D.N.Y. 2021), Judge Furman held that the common law and the First Amendment required appropriate disclosure of a defendant's CJA Form 23 and accompanying affidavit. Judge Furman suggested amending Rule 49.1(d) and removing the committee note's reference to the CACM guidance. The Advisory Committee concluded that the original committee note did not produce confusion about the constitutional or common-law rights of access, and it also hesitated to venture into potentially substantive issues through rule amendments.

***Rule 17 (Subpoena).*** Judge Dever reported on this item as well. The Advisory Committee is analyzing a proposal by the New York City Bar to amend Rule 17 to allow defendants to more easily subpoena third parties for documents. As part of this process, the Advisory Committee has appointed a subcommittee, chaired by Judge Nguyen, to gather information about how federal courts apply the rule and how states handle these kinds of subpoenas. The goal is to determine whether there is a problem that warrants a rule change. There have been two Supreme Court cases interpreting the rule, both fairly atypical. The subcommittee has heard from a wide variety of experienced practitioners from the defense bar and the Department of Justice. The process is still in its early stages, and the Advisory Committee will continue to study these issues.

Judge Bates commented that the miniconference on the Rule 17 issue at the most recent Advisory Committee meeting had been very informative and had elicited several different perspectives that should be useful in the committee's ongoing study.

Judge Bates opened the floor to questions or comments regarding the Advisory Committee's report. Hearing none, he invited the Evidence Rules Committee to give its report.

## REPORT OF THE ADVISORY COMMITTEE ON EVIDENCE RULES

Judge Schiltz and Professor Capra presented the report of the Advisory Committee on Evidence Rules, which last met in Phoenix, Arizona, on October 28, 2022. The Advisory Committee presented two information items and no action items. The Advisory Committee's report and the draft minutes of its last meeting were included in the agenda book beginning at page 365.

*Information Items*

***Rule 611 (Juror Questions for Witnesses).*** Judge Schiltz reported on this item. This proposal would add a new subsection (e) to Rule 611 to create safeguards if jurors are permitted to ask questions at trial. The proposed amendment was presented to the Standing Committee at the June 2022 meeting. Most comments then had been about whether jury questioning is a good thing at all; some members thought that it was not and that putting safeguards in the rule would only encourage judges to allow jurors to ask questions. The proposed amendment was returned to the Advisory Committee for further study on the pros and cons of juror questioning.

The Advisory Committee held a miniconference on the issue at its fall 2022 meeting in Phoenix, Arizona, which was coincidental but fortunate in that Arizona is a pioneer among the states in allowing juror questioning. The panel included federal and state judges and civil and criminal practitioners, all with a great deal of experience with juror questioning. All of them expressed the view that juror questioning was a positive thing with many benefits and few risks. They all supported the proposed rule. It was difficult to find opponents—one whom Professor Capra did find could not attend the miniconference. Afterward, the Advisory Committee thoroughly discussed the proposal. It will continue to discuss the proposal at its spring 2023 meeting and decide whether to pursue it.

Judge Bates thought the miniconference was a helpful exercise. Although it was one-sided—as it necessarily would be in Arizona—it gave the committee many issues to consider.

Professor Capra reiterated that it was difficult to find someone in Arizona who had anything critical to say about the practice. There were a couple of comments—one from a judge at the miniconference who said that juror questioning sometimes took too much time, and another from a prosecutor who said that sometimes there is a risk that questioning can get out of hand because the lawyers cannot control the witness. But there was a swarm of positive factors indicating that juror questioning is not the problem that some think it would be. Most juror questions are only for clarification, not attempts to take over the case or to pick or fill holes in one party's case.

Judge Bates raised a concern about juror questions in criminal cases. The criminal process is not a pure search for the truth—the prosecutor has the burden to prove guilt. He suggested that a juror question may unfairly help the prosecution by revealing a problem in the case that the prosecutor can then address or cure.

A judge member asked whether there was anecdotal information from actual jurors, such as information from a questionnaire asking whether they liked being able to ask questions. Professor Capra said that the judges reported that they generally discuss the process with jurors

and that reviews had been positive. One juror told a judge that he was glad he could ask questions so that he did not have to look up answers on the internet. Another juror said that it was nice to be able to ask questions; even if the juror did not do so, the juror still became more involved in the process. Judge Schiltz also commented that there have been studies showing that jurors give overwhelmingly positive feedback about the ability to ask questions.

A practitioner member asked whether a 50-state (and multidistrict) survey had been done to learn about the prevalence of the practice. Professor Capra responded that there are some data on that question. The state of Washington has a juror-questioning practice. About 15% to 20% of trials in federal courts allow juror questioning. The member commented that it would be a good idea to identify federal district judges who allow the practice and to get their feedback. Judge Bates observed that it is a judge-by-judge question, not a court-by-court question. The practitioner member reiterated that the Advisory Committee should try to determine the frequency of the practice outside of Arizona and to talk with federal judges who have done juror questioning and find out its pros and cons. Judge Schiltz noted that the Advisory Committee had the same questions and had asked Professor Capra to gather more data on them. Professor King commented that the National Center for State Courts has collected and published data about juror questioning in the states.

Judge Bates asked whether the Advisory Committee had considered whether there is a difference between the civil and criminal contexts and whether a rule might address one but not the other. Professor Capra responded that any safeguard that applies in the civil context would have to apply to the criminal context as well. Perhaps criminal cases could have additional safeguards, but no safeguards would apply only to the civil context.

Judge Schiltz commented that there had been a study in the Ninth Circuit that recommended permitting juror questioning in civil cases but not criminal cases. Judge Bates suggested, however, that there was more recent work in the Ninth Circuit that was more positive about juror questions. And Professor Capra noted that the Ninth Circuit pattern criminal instructions now address juror questions.

***Rule 611 (Illustrative Aids).*** Judge Schiltz reported on this item as well. The Advisory Committee held a second miniconference in Phoenix on illustrative aids. Despite the fact that illustrative aids are used in virtually every trial, there is confusion over the difference between demonstrative evidence, which is admitted into evidence, and illustrative aids, which are not admitted into evidence and are used only to help the jury understand evidence that has been admitted. There are variations among judges' practices about notice requirements to opposing counsel, whether illustrative aids can go to the jury room, and whether the aids become part of the record.

This amendment would add a new subsection (d) to govern the use of illustrative aids. It would clarify the distinction between illustrative aids and demonstrative evidence, require notice, prohibit illustrative aids from going to the jury room absent a court ruling and proper instruction, and require they be made part of the record so that they would be available to the appellate court.

The miniconference featured a large panel of judges, professors, and practitioners, most of whom opposed the proposed rule. Since then, the Advisory Committee has also received about 40

comments on the rule. Most opposition is to the notice requirement. Practitioners adamantly opposed having to show their illustrative aids to their opponents, especially aids they wanted to use at closing. There were also practical concerns. The category of illustrative aids spans a wide variety. For example, if an attorney writes something on a chart as a witness is testifying, how does the attorney give prior notice to opposing counsel of that contemporaneously created illustrative aid? The Advisory Committee did receive a comment in support of the rule—including the notice requirement—from the Federal Magistrate Judges Association. At its spring 2023 meeting, the Advisory Committee will review the comments and decide whether to move forward, perhaps after excising the notice requirement.

Judge Bates, noting that this miniconference had also been very helpful to the Advisory Committee, opened the floor for comment.

A practitioner member raised concerns about the notice requirement from the member's colleagues in trial practice. Attorneys persuade juries in two ways: by words and by visuals. When both are aligned, people retain far more information than when only one method is used. An attorney would never show the outline of an opening statement or witness exam to an opponent—it puts the attorney at a strategic disadvantage because opponents can change what they will say in response. Sharing an illustrative aid is similar. And the effect of taking the notice requirement out would be that there is a transcript, an objection, and a discussion—the rule would treat illustrative aids the same as attorneys' oral statements. Requiring notice would put more disclosure obligation on the visual than the oral. Professor Capra responded that he thinks the Advisory Committee was comfortable with deleting the notice requirement, and it is likely that that is what will happen.

The member also commented that, as illustrative aids are defined—helping the factfinder understand admitted evidence—a strict reading would mean that a PowerPoint presentation could not be used in an opening because no evidence will have been admitted yet. Professor Capra responded that the Advisory Committee needs to decide whether the rule applies to openings and closings. If the rule were to apply to openings and closings, one could revise proposed Rule 611(d)(1)'s "understand admitted evidence" to read "understand admitted evidence or argument."

A judge member mentioned that, as a trial judge, the member would customarily make illustrative aids a part of the record. Now, after 20 years on the court of appeals, the member has had very little occasion to see an illustrative aid that is part of the trial record. The member continues to think that putting aids in the record is the better practice. The appellate courts are so far removed from the trial process that anything that gives them a better feel of what has been before the trier of fact is of great assistance.

A second practitioner member expressed support for rulemaking on this topic and commented on the centrality of slides in modern trials. The member is often concerned that the other side will do something crazy with illustrative aids in openings and closings. The member can sometimes work out an arrangement with the other side to mutually disclose trial materials. But sometimes things like closing slides are made the night before the closing argument—when is it practical to give notice for these aids? Putting aids in the record is an easy decision, as is making it clear that they do not go to jury deliberations. Notice might bother the member less than it does other lawyers because the member has seen people do crazy things at trial, and the damage is done even if the judge says something after the fact. The standard in proposed Rule 611(d)(1)(A)

("[substantially] outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, or wasting time") gives a judge enormous power over what can be done—that might be good or bad. The member does not know what the standard should be; maybe it should be the same as applies to oral advocacy in a closing argument.

A third practitioner member largely agreed with the previous member's comments. The solution is probably not one-size-fits-all, so the member is not sure what to do about a notice requirement. The second practitioner member suggested that you do not want to show aids to opposing counsel so far in advance that they can change what they will do in response, but you do want to make sure that there are not any slides that are so outrageous that the judge should know about them in advance.

Professor Capra asked whether the solution might be to take out the notice requirement from the text but to put in language that summarizes the two previous members' comments—there is no one-size-fits-all notice requirement, but notice is preferred because it allows judges to decide in advance rather than after the fact. But the rule would leave the determination for the judge to make.

The second practitioner member agreed with Professor Capra's suggestion. The "Wild West" view of trials is dangerous, so having some notice is a good idea. But it should not be so much notice that each side can redo its slides in response to the other's.

The third practitioner member noted that it is much harder to unsee than unhear something. That is a qualitative difference between what is said and shown. Judge Bates observed that it would be valuable for the Advisory Committee to consider preserving judges' discretion to deal with the notice issue.

The first practitioner member reiterated opposition to a notice requirement. Leaving the notice requirement out of the rule does not strip a federal judge of inherent authority. Also, some slides' power comes from not disclosing them in advance. If this rule applies to openings and closings, notice disincentivizes parties from using powerful slides during those key parts of trial.

Professor Capra responded that many judges already use Rule 611(a) to control visual demonstrations in openings and closings. It did not make sense to him to exclude openings and closings from a rule specific to illustrative aids because there would then be two rules covering essentially the same thing, one during trial and one during openings and closings.

*Updates on Other Rules Published for Public Comment.*

Judge Schiltz briefly mentioned that there are several other proposed rules that are published for comment. The Advisory Committee has received almost no comments on those rules.

Judge Bates called for any further comments from the Standing Committee. Hearing none, Judge Bates thanked the Advisory Committees, their members, reporters, and chairs for their hard work.

## OTHER COMMITTEE BUSINESS

*Action Item*

***Judiciary Strategic Planning.*** This was the last item on the meeting's agenda. Judge Bates explained that the Standing Committee needed to give its recommendations to the Judicial Conference's Executive Committee about the contents of the strategic plan and what should receive priority attention over the next two years. The recommendations were due within a week after the meeting. Judge Bates requested comment on the priorities in the strategic-planning memorandum beginning on page 402 of the agenda book. No comments were offered.

Judge Bates then sought the Standing Committee's authorization to work with the Rules Committee Staff to give comments to the Executive Committee, on behalf of the Rules Committees, about the strategies and goals for the next two years. This procedure had been followed in the past, but he wanted to be sure that no one had any problem with it. **Without objection, the Standing Committee gave Judge Bates that authorization.**

*New Business*

Judge Bates then opened the floor to new business. No member raised new business.

## CONCLUDING REMARKS

Before adjourning the meeting, Judge Bates thanked the Standing Committee members and other attendees for their valuable contributions and insights. The committee will next convene on June 6, 2023, in Washington, D.C.

# TAB 3A2

**Agenda E-19 (Summary)**
**Rules**
**March 2023**

# SUMMARY OF THE

# REPORT OF THE JUDICIAL CONFERENCE

# COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

This report is submitted for the record and includes the following for the information of the Judicial Conference:

# REPORT OF THE JUDICIAL CONFERENCE

## COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

## TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The Committee on Rules of Practice and Procedure (Standing Committee or Committee) met on January 4, 2023. All members participated.

Representing the advisory committees were Judge Jay S. Bybee, Chair, and Professor Edward Hartnett, Reporter, Advisory Committee on Appellate Rules; Judge Rebecca Buehler Connelly, Chair, Professor S. Elizabeth Gibson, Reporter, and Professor Laura B. Bartell, Associate Reporter, Advisory Committee on Bankruptcy Rules; Judge Robin L. Rosenberg, Chair, Professor Richard L. Marcus, Reporter, Professor Andrew Bradt, Associate Reporter, and Professor Edward H. Cooper, Consultant, Advisory Committee on Civil Rules; Judge James C. Dever III, Chair, Professor Sara Sun Beale, Reporter, and Professor Nancy J. King, Associate Reporter, Advisory Committee on Criminal Rules; and Judge Patrick J. Schiltz, Chair, and Professor Daniel J. Capra, Reporter, Advisory Committee on Evidence Rules.

Also participating in the meeting were Professor Catherine T. Struve, the Standing Committee's Reporter; Professor Daniel R. Coquillette, Professor Bryan A. Garner, and Professor Joseph Kimble, consultants to the Standing Committee; H. Thomas Byron III, the Standing Committee's Secretary; Bridget Healy, Scott Myers, and Allison Bruff, Rules Committee Staff Counsel; Christopher I. Pryby, Law Clerk to the Standing Committee; John S. Cooke, Director, and Dr. Tim Reagan, Senior Research Associate, Federal Judicial Center; and

Elizabeth J. Shapiro, Deputy Director, Federal Programs Branch, Civil Division, Department of Justice.

In addition to its general business, including a review of the status of pending rule amendments in different stages of the Rules Enabling Act process and pending legislation affecting the rules, the Standing Committee received and responded to reports from the five advisory committees. The Committee also received an update on the coordinated work among the Appellate, Bankruptcy, Civil, and Criminal Rules Committees to consider suggestions to allow expanded access to electronic filing by pro se litigants and an update on a suggestion to change the presumptive deadline for electronic filing.

## FEDERAL RULES OF APPELLATE PROCEDURE

### *Information Items*

The Advisory Committee on Appellate Rules met on October 13, 2022. The Advisory Committee discussed possible amendments to Rule 29 (Brief of an Amicus Curiae), Rule 39 (Costs), and Form 4 (Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis).

The Advisory Committee has been considering potential amendments to Rule 29 for several years and received helpful feedback from the Standing Committee regarding the need for and scope of any potential additional requirements for disclosures by amici curiae, including disclosure requirements related to ownership, control, or funding by the parties or non-parties. In addition, the Advisory Committee is considering possible amendments to Rule 39 in the light of *City of San Antonio v. Hotels.com*, 141 S. Ct. 1628 (2021), regarding the allocation of costs on appeal, specifically related to supersedeas bonds. The Advisory Committee is also considering possible amendments to Form 4 in response to a suggestion highlighting issues with the current

form, and has consulted clerks and senior staff attorneys in the circuits to determine the most relevant information on the form.

## FEDERAL RULES OF BANKRUPTCY PROCEDURE

### *Official Form Approved for Publication and Comment*

The Advisory Committee on Bankruptcy Rules submitted a proposed amendment to Official Form 410 (Proof of Claim) with a recommendation that it be published for public comment in August 2023. The Standing Committee unanimously approved the Advisory Committee's recommendation.

Official Form 410 (Proof of Claim)

The proposed amendment eliminates the language on the proof-of-claim form that restricts use of a uniform claim identifier ("UCI") to electronic payments in chapter 13, and thereby allows the UCI to be used in cases filed under all chapters of the Bankruptcy Code and for all payments whether or not electronic. Use of the UCI is entirely voluntary on the part of the creditor. The amended language allows a creditor to list a UCI on the proof-of-claim form in any case.

### *Information Items*

The Advisory Committee met on September 15, 2022. In addition to the recommendation discussed above, the Advisory Committee continued consideration of proposed amendments to Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case) and related forms. A version of the amended rule published for comment in 2021 received a number of comments on proposed provisions designed to enhance the likelihood that chapter 13 debtors will emerge from bankruptcy current on their home mortgages. In light of the comments, the Advisory Committee is considering changes that would likely require republication in August 2023.

## FEDERAL RULES OF CIVIL PROCEDURE

### *Information Items*

The Advisory Committee on Civil Rules met on October 12, 2022. The Advisory Committee submitted proposed amendments to Rules 16(b)(3) (Pretrial Conferences; Scheduling; Management) and 26(f)(3) (Duty to Disclose; General Provisions Governing Discovery) regarding privilege logs with a recommendation that they be published for public comment in August 2023. The proposed amendments would call for early identification of a method to comply with Rule 26(b)(5)(A)'s requirement that producing parties describe materials withheld on grounds of privilege or as trial-preparation materials. Specifically, the proposed amendment to Rule 26(f)(3)(D) would require the parties to address in their discovery plan the timing and method for complying with Rule 26(b)(5)(A). The proposed amendment to Rule 16(b) would provide that the court may address the timing and method of such compliance in its scheduling order. During the Standing Committee meeting, members expressed differing views concerning the length of and level of detail in the committee notes that would accompany the proposed amendments. The Advisory Committee was asked to reexamine the notes in light of that discussion, and to present the proposed amendments to the Standing Committee at its June 2023 meeting.

In addition, the Advisory Committee continues to consider a potential new rule concerning judicial management of multidistrict litigation proceedings. The MDL subcommittee has developed a sketch for a new Rule 16.1 directed to MDL proceedings. The new rule would prompt a meet-and-confer session among counsel before the initial case management conference with the transferee court. In two alternatives, the sketch of the rule provides various topics for discussion by counsel. The Advisory Committee continues to discuss the possibility of proposing a new Rule 16.1.

The Advisory Committee also discussed potential amendments to Rule 7.1 (Disclosure Requirement) regarding disclosure of possible grounds for recusal, Rule 41(a) (Dismissal of Actions) regarding the dismissal of some but not all claims or parties, Rule 45(b)(1) (Subpoena) regarding methods for serving a subpoena, and Rule 55 (Default; Default Judgment) regarding the directive that in some circumstances the clerk "must" enter a default or a default judgment.

## FEDERAL RULES OF CRIMINAL PROCEDURE

### *Information Items*

The Advisory Committee on Criminal Rules met on October 27, 2022. The Advisory Committee removed from its agenda a suggestion regarding Rule 49.1 (Privacy Protection For Filings Made with the Court) and considered a suggestion to amend Rule 17 (Subpoena).

The Advisory Committee considered a suggestion to amend Rule 49.1 by adding the phrase "subject to any applicable right of public access" before Rule 49.1(d)'s authorization permitting the court to order that filings be made under seal. This change had been proposed to address certain language in an earlier committee note that included a reference to the *Guidance for Implementation of the Judicial Conference Policy on Privacy and Public Access to Electronic Criminal Case Files* (March 2004) issued by the Committee on Court Administration and Case Management (CACM). As quoted in the committee note, the CACM guidance provides that certain documents—including "financial affidavits filed in seeking representation pursuant to the Criminal Justice Act"—"shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access." Several reasons factored into the Advisory Committee's decision not to pursue the proposed amendment. One was the concern that the amendment would be perceived as taking a position on an issue of substantive law (that is, whether such financial affidavits are judicial documents subject to disclosure under the First Amendment or a common law right of access). Another was the

observation that such an amendment would not remove the earlier committee note's reference to the CACM guidance.

The Advisory Committee continues to consider a New York City Bar Association suggestion concerning Rule 17. The Advisory Committee formed a subcommittee to study the issue and, to gather more information about Rule 17 in practice, invited a number of experienced attorneys to participate in its fall meeting. The participants included defense lawyers in private practice, federal defenders, and representatives of the Department of Justice. The participants spoke about their experience with Rule 17 subpoena practice, and answered questions regarding the standards for securing third-party subpoenas and the role of judicial oversight in the process.

## FEDERAL RULES OF EVIDENCE

### *Information Items*

The Advisory Committee on Evidence Rules met on October 28, 2022. In connection with the meeting, the Advisory Committee held panel discussions on two suggestions concerning Rule 611 (Mode and Order of Examining Witnesses and Presenting Evidence). The first panel discussion related to a possible new Rule 611(e) regarding the practice of allowing jurors to pose questions for witnesses. The Advisory Committee will continue its research into juror questions, including how often the practice is used in federal courts and potential safeguards for the practice. The second panel discussion related to proposed new Rule 611(d) regarding illustrative aids, which was published for public comment in August 2022. Proposed Rule 611(d) would state the permitted uses of illustrative aids and would set procedures for their use. Finally, the Advisory Committee provided updates on other rules published for public comment, including Rule 613(b) (Witness's Prior Statement) regarding prior inconsistent statements, Rule 801(d)(2) (Definitions That Apply to This Article; Exclusions from Hearsay) related to hearsay statements by predecessors in interest, Rule 804(b)(3) (Exceptions to the Rule Against Hearsay—When the

Declarant Is Unavailable as a Witness) regarding the corroborating circumstances requirement, and Rule 1006 (Summaries to Prove Content) regarding summaries of voluminous records.

**JUDICIARY STRATEGIC PLANNING**

The Committee was asked to provide recommendations to the Executive Committee regarding the prioritization of goals and strategies in the 2020 *Strategic Plan for the Federal Judiciary* (*Plan*) to determine which strategies and goals from the *Plan* should receive priority attention over the next two years. The Committee's views were communicated to Chief Judge L. Scott Coogler, the judiciary planning coordinator, by letter dated January 10, 2023.

Respectfully submitted,

John D. Bates, Chair

| | |
|---|---|
| Elizabeth J. Cabraser | Lisa O. Monaco |
| Robert J. Giuffra, Jr. | Andrew J. Pincus |
| William J. Kayatta, Jr. | Gene E.K. Pratter |
| Carolyn B. Kuhl | D. Brooks Smith |
| Troy A. McKenzie | Kosta Stojilkovic |
| Patricia Ann Millett | Jennifer G. Zipps |

# TAB 4

# TAB 4A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

SUBJECT: ADDITIONAL CHANGES TO RULE 3002.1 (CHAPTER 13—CLAIM SECURED BY A SECURITY INTEREST IN THE DEBTOR'S PRINCIPAL RESIDENCE**)**

DATE: MARCH 2, 2023

At the fall meeting and by email afterwards, the Advisory Committee approved for republication changes to the proposed Rule 3002.1 amendments made in response to comments submitted after the 2021 publication. Since that time, the Subcommittee has considered and approved additional changes to the amendments, which are described below. **It recommends that the Advisory Committee approve them for inclusion in the rule that will be republished.** Included in the agenda book after this memo are (1) a draft of the rule as approved in the fall with the additional changes indicated and (2) a draft of the rule for publication, which shows proposed changes to the restyled rule that is on track to go into effect in 2024.

Many of the new changes are stylistic. They were suggested by the style consultants after they reviewed the rule approved in the fall. Form numbers were also filled in. The new substantive changes consist of the following:

- In (f)(1) the cut-off date for filing a motion to determine the status of a mortgage was changed from when the case is closed to when the trustee files the notice under (g)(1). This change was made to prevent an overlap with the motion under (g)(4).
- In (g)(1) rather than restricting the applicability of the subdivision to cases in which "the trustee has made any payments on a claim described in (a)," it was changed to apply at

the end of any chapter 13 case in which the debtor completes all payments to the trustee. This change was made because one purpose of the trustee's end-of-case notice is to trigger a response from the claim holder that reveals the status of the mortgage on its books. If the trustee or debtor disagrees with that response, either can seek a court determination under (g)(4). This procedure should be available in a non-conduit district even if the trustee made no default payments.

- Subdivision (g)(4) was expanded to refer to the required use of Official Forms and to prescribe requirements for the response to the motion. Also the provision about timing if the trustee does not file the required notice was deleted in order to avoid suggesting that not filing is permissible.
- The Committee Note was changed to reflect the changes to the rule.

Changes to version approved at 9/22 meeting

**Rule 3002.1. Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence**

(a) IN GENERAL. This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make contractual payments. Unless the court orders otherwise, the requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective.

(b) NOTICE OF A PAYMENT CHANGE; HOME-EQUITY LINE OF CREDIT; EFFECT OF AN UNTIMELY NOTICE; OBJECTION.

(1) *Notice by the Claim Holder—In General*. The claim holder must file a notice of any change in the payment amount—including ~~any~~

~~change~~ one resulting from an interest-rate or escrow-account adjustment. The notice must be served on:

- the debtor;
- the debtor's attorney; and
- the trustee.

Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due.

(2) *Notice of a Change in a Home-Equity Line of Credit*.

(A) *Deadline for the Initial Filing; Later Annual Filing*. If the claim arises from a home-equity line of credit, the notice of a payment change must be filed and served either as provided in (b)(1) or within one year after the bankruptcy-petition filing, ~~was filed~~ and then at least annually.

(B) *Contents~~s~~ of the Annual Notice.* The annual notice must:

(i) state the payment amount due for the month when the notice is filed; and

(ii) include a reconciliation amount to account for any overpayment or underpayment during the prior year.

(C) *Amount of the Next Payment.* The first payment due at least 21 days after the annual notice is filed and served must be increased or decreased by the reconciliation amount.

(D) *Effective Date.* The new payment amount stated in the annual notice (disregarding the reconciliation amount) ~~will be~~ is effective on the first payment due date

after the payment under (C) ~~is~~ has been made and ~~will~~ remains effective until a new notice becomes effective.

(E) *Payment Changes Greater Than $10.* If the claim holder ~~opts~~ chooses to give annual notices under (b)(2) and the monthly payment increases or decreases by more than $10 in any month, the ~~claim~~ holder must file and serve (in addition to the annual notice) a notice under (b)(1) for that month.

(3) *Effect of an Untimely Notice.* If the claim holder does not timely file and serve the notice required by (b)(1) or (b)(2), the effective date of the new payment amount is as follows:

(A) when the notice concerns a payment increase, on the first payment due date that is at least 21 days after the untimely notice was filed and served~~,~~; or

(B) when the notice concerns a payment decrease, on the first payment due date ~~that is~~ after the date of the notice.

(4) *Party in Interest's Objection.* A party in interest who objects to a payment change noticed under (b)(1) or (b)(2) may file and serve a motion to determine the change's validity ~~of the payment change~~. Unless the court orders otherwise, if no motion is filed before the day the new payment is due, the change goes into effect on that date.

(c) FEES, EXPENSES, AND CHARGES INCURRED AFTER THE CASE WAS FILED; NOTICE BY THE CLAIM HOLDER. The claim holder must file a notice itemizing all fees, expenses, and charges ~~that the claim holder has~~ incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges are incurred, the notice must be

filed and served on the individuals listed in (b)(1).

(d) FILING NOTICE AS A SUPPLEMENT TO A PROOF OF CLAIM. A notice under (b) or (c) must be filed as a supplement to a proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f).

(e) DETERMINING FEES, EXPENSES, OR CHARGES. On a party in interest's motion, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law. The motion must be filed within one year after the notice under (c) was served, unless a party in interest ~~has requested~~ requests and the court orders a shorter period.

(f) MOTION TO DETERMINE STATUS; RESPONSE; COURT DETERMINATION.

(1) *Timing; Content and Service.* At any time after the date of the order for relief under

Chapter 13 and until the ~~case is closed~~ trustee files the notice under (g)(1), the trustee or debtor may file a motion to determine the status of any claim described in (a). The motion must be prepared using ~~Official~~ Form ~~[ ]~~ 410C13-M1 and be served on:

- the debtor and the debtor's attorney, if the trustee is the movant;
- the trustee, if the debtor is the movant; and
- the claim holder.

(2) *Response; Content and Service.* If the claim holder disagrees with facts set forth in the motion, it must file a response within 21 days after the motion is served. The response must be prepared using ~~Official~~ Form ~~[ ]~~ 410C13-M1R and be served on the individuals listed in (b)(1).

(3) *Court Determination.* If the claim holder's response asserts a disagreement with facts set forth in the motion, the court must, after notice

and a hearing, determine the status of the claim and enter an appropriate order. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may ~~enter an order favorable to the moving party~~ grant the motion based based on those facts.

(g) TRUSTEE'S END-OF-CASE NOTICE OF PAYMENTS MADE; RESPONSE; COURT DETERMINATION.

(1) *Timing~~;~~ and Content ~~and Service~~.* Within 45 days after the debtor completes all payments due to the trustee under a Chapter 13 plan, the trustee~~ if the trustee has made any payments on a claim described in (a)~~ must file a notice ~~stating~~:

(A) stating ~~the~~ what amount, if any, the trustee paid to the claim holder to cure any default and whether the default has been cured; ~~and~~

(B) stating ~~the~~ what amount, if any, the trustee paid to the claim holder for contractual payments that came due during the pendency of the case and whether contractual payments are current as of the date of the notice~~.~~; and

~~The notice must also~~

(C) informing the claim holder of its obligation to respond under (g)(~~2~~3).

(2) *Service.* The notice must be prepared using ~~Official~~ Form [ ] 410C13-N and be served on:

- the claim holder;
- the debtor;
- and debtor's attorney.

(~~2~~3) *Response*. The claim holder must file a response to the notice within 28 days after its service. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim

holder's proof of claim ~~and is not subject to Rule 3001(f)~~. The response must be prepared using ~~Official~~ Form ~~[ ]~~ 410C13-NR and be served on the individuals listed in (b)(1).

(~~3~~4) *Court Determination of a Final Cure and Payment.*

A. *Motion*. After service of the response under (g)(3) or within 45 days after service of the trustee's notice under (g)(1) if no response is filed by the claim holder, the debtor or trustee may file a motion to ~~On motion of the debtor or trustee and after notice and hearing, the court must~~ determine whether the debtor has cured ~~any~~ all defaults and paid all required postpetition amounts on a claim described in (a). The motion must be prepared using Form 410C13-M2 and be served on the entities listed in (f)(1). ~~The~~

~~trustee or debtor may seek such a determination within the following time periods:~~

- ~~within 28 days after service of the response under (g)(2);~~
- ~~within 45 days after service of the trustee's notice under (g)(1) if no response is filed by the claim holder under (g)(2); or~~
- ~~before the chapter 13 case is closed if the trustee does not file the notice under (g)(1).~~

B. *Response.* If the claim holder disagrees with the facts set forth in the motion, it must file a response within 21 days after the motion is served. The response must be prepared using Form 410C13-M2R and be served on the individuals listed in (b)(1).

C. *Court Determination.* After notice and a hearing, the court must determine whether the debtor has cured all defaults and paid all required postpetition amounts. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an appropriate order based on those facts.

(h) CLAIM HOLDER'S FAILURE TO GIVE NOTICE OR RESPOND. If the claim holder fails to provide any information as required by this rule, the court may, after notice and a hearing, do one or more of the following:

(1) preclude the holder from presenting the omitted information in any form as evidence in any contested matter or adversary proceeding in the case—unless the court determines that the failure was substantially justified or is harmless;

(2) award other relief, including reasonable expenses and attorney's fees caused by the failure and, in appropriate circumstances, noncompensatory sanctions; and

(3) take any other action authorized by this rule.

**Committee Note**

The rule is amended to encourage a greater degree of compliance with its provisions and to allow assessments of a mortgage claim's status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule's applicability, is amended to delete the word "installment" in the phrase "contractual installment payment" in order to clarify the rule's applicability to reverse mortgages, which are not paid in installments.

In addition to stylistic changes, subdivision (b) is amended to provide more detailed provisions about notice of payment changes for home-equity lines of credit ("HELOCs") and to add provisions about the effective date of late payment change notices. The treatment of HELOCs

presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can be overly burdensome. Under new subdivision (b)(2), a HELOC claimant may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than $10. This provision also ensures at least 21 days' notice before a payment change takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease.

The changes made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides a procedure for assessing the status of the mortgage at any point ~~while the chapter 13 case is pending~~ before the trustee files the notice under (g)(1). This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to be informed of any deficiencies in payment and to reconcile records with the claim holder in time to become current before the case is closed. The procedure is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose.

The claim holder then ~~has to~~ must respond if it disagrees with facts stated in the motion, again using an Official Form to provide the required information. If the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determine the status of the mortgage claim. If the claim holder fails to respond or does not dispute the facts set forth in the motion, the court may enter an order favorable to the moving party based on those facts.

~~As under the former rule, the trustee must file a notice at the end of the completed case if the trustee has made payments to the claim holder on a claim covered by the rule.~~ Under subdivision (g), within 45 days after the last plan payment is made to the trustee, the trustee must file a notice of final cure and payment. An Official Form has been adopted for this purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount, if any, that the trustee has paid on contractual obligations that came due during the case and whether those payments are current as of the date of the notice. The claim holder then must respond within 28 days after service of the notice, again using an Official Form to provide the required information.

Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion, using the appropriate Official Form, may ~~must~~ be filed within 28 days after the claim holder responds to the trustee's notice under (g)(1), or, if the claim holder fails to respond to the notice, within 45 days after the notice was served. ~~If no notice was filed, the motion may be made at any time before the case is closed.~~ The court will then determine the status of the mortgage. A Director's Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). It has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. It also expressly states that noncompensatory sanctions may be awarded in appropriate circumstances. Stylistic changes have also been made to the subdivision.

**Rule 3002.1. ~~Notice Relating to~~ Chapter 13 ~~Claims~~ Claim Secured by a Security Interest in the Debtor's Principal Residence ~~in a Chapter 13 Case~~** [1]

(a) IN GENERAL. This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make contractual ~~installment~~ payments. Unless the court orders otherwise, the ~~notice~~ requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective.

(b) NOTICE OF A PAYMENT CHANGE; HOME-EQUITY LINE OF CREDIT; EFFECT OF AN UNTIMELY NOTICE; OBJECTION.

(1) *Notice by the Claim Holder ~~In~~ General.* The claim holder must file a notice of any change in the payment amount, ~~of an installment~~

[1] The changes indicated are to the restyled version of Rule 3002.1, not yet in effect.

~~payment~~ including ~~any change~~ one resulting from an interest-rate or escrow-account adjustment. ~~At least 21 days before the new payment is due,the~~ The notice must be ~~filed and~~ served on:

- the debtor;
- the debtor's attorney; and
- the trustee.

Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due.~~If the claim arises from a home-equityline of credit, the court may modify this requirement.~~

(2) *Notice of a Change in a Home-Equity Line of Credit.*

(A) *Deadline for the Initial Filing; Later Annual Filing.* If the claim arises from a home-equity line of credit, the notice of a payment change must be filed and served either as provided in (b)(1) or within

one year after the bankruptcy-petition filing, and then at least annually.

(B) *Content of the Annual Notice.* The annual notice must:

(i) state the payment amount due for the month when the notice is filed; and

(ii) include a reconciliation amount to account for any overpayment or underpayment during the prior year.

(C) *Amount of the Next Payment.* The first payment due at least 21 days after the annual notice is filed and served must be increased or decreased by the reconciliation amount.

(D) *Effective Date.* The new payment amount stated in the annual notice

(disregarding the reconciliation amount) is effective on the first payment due date after the payment under (C) has been made and remains effective until a new notice becomes effective.

(E) *Payment Changes Greater Than $10.* If the claim holder chooses to give annual notices under (b)(2) and the monthly payment increases or decreases by more than $10 in any month, the holder must file and serve (in addition to the annual notice) a notice under (b)(1) for that month.

(3) *Effect of an Untimely Notice.* If the claim holder does not timely file and serve the notice required by (b)(1) or (b)(2), the effective date of the new payment amount is as follows:

(A) when the notice concerns a payment increase, on the first payment due

date that is at least 21 days after the untimely notice was filed and served; or

(B) when the notice concerns a payment decrease, on the first payment due date after the date of the notice.

(4) *Party in Interest's Objection.* A party in interest who objects to ~~the~~ a payment change noticed under (b)(1) or (b)(2) may file and serve a motion to determine ~~whether the change is required to maintain payments under § 1322(b)(5)~~the change's validity. Unless the court orders otherwise, if no motion is filed ~~by~~ before the day ~~before~~ the new payment is due, the change goes into effect on that date.

(c) FEES, EXPENSES, AND CHARGES INCURRED AFTER THE CASE WAS FILED; NOTICE BY THE CLAIM HOLDER. The claim holder must file a notice itemizing all fees, expenses, and charges incurred

after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges ~~were~~ are incurred, the notice must be filed and served on the individuals listed in (b)(1).~~:~~

~~• the debtor;~~

~~• the debtor's attorney; and~~

~~• the trustee.~~

(d) FILING NOTICE AS A SUPPLEMENT TO A PROOF OF CLAIM. A notice under (b) or (c) must be filed as a supplement to ~~the~~ a proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f).

(e) DETERMINING FEES, EXPENSES, OR CHARGES. On a party in interest's motion ~~filed within one year after the notice in (c) was served~~, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying

agreement and applicable nonbankruptcy law. ~~to cure a default or maintain payments under § 1322(b)(5).~~ The motion must be filed within one year after the notice under (c) was served, unless a party in interest requests and the court orders a shorter period.

(f) MOTION TO DETERMINE STATUS; RESPONSE; COURT DETERMINATION.

(1) *Timing; Content and Service.* At any time after the date of the order for relief under Chapter 13 and until the trustee files the notice under (g)(1), the trustee or debtor may file a motion to determine the status of any claim described in (a). The motion must be prepared using Form 410C13-M1 and be served on:

- the debtor and the debtor's attorney, if the trustee is the movant;
- the trustee, if the debtor is the movant; and
- the claim holder.

(2) *Response; Content and Service.* If the claim holder disagrees with facts set forth in the motion, it must file a response within 21 days after the motion is served. The response must be prepared using Form 410C13-M1R and be served on the individuals listed in (b)(1).

(3) *Court Determination.* If the claim holder's response asserts a disagreement with facts set forth in the motion, the court must, after notice and a hearing, determine the status of the claim and enter an appropriate order. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may grant the motion based on those facts.

(~~f~~g) ~~NOTICE OF THE FINAL CURE PAYMENT.~~ TRUSTEE'S END-OF-CASE NOTICE OF PAYMENTS MADE; RESPONSE; COURT DETERMINATION.

(1) ~~*Contents of a Notice*~~ *Timing and Content*. Within ~~30~~ 45 daysafter the debtor completes all payments due to the trustee under a Chapter 13 plan, the trustee must file a notice:

(A) stating ~~that the debtor has paid infull the~~ what amount ~~required~~, if any, the trustee paid to the claim holder to cure any default ~~on the claim~~and whether it has been cured; ~~and~~

(B) ~~the~~ stating what amount, if any, the trustee paid to the claim holder for contractual payments that came due during the pendency of the case and whether contractual payments are current as of the date of the notice; and~~the claim holder of its obligation to file and serve a response under (g).~~

(C) informing the claim holder of its obligation to ~~file and serve a response~~ respond under (g)(3).

(2) ~~*Serving the Notice*~~ *Service*. The notice must be prepared using Form 410C13-N and be served on:

- the claim holder;
- the debtor; and
- the debtor's attorney.

(3) *Response*. The claim holder must file a response to the notice within 28 days after its service. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim. The response must be prepared using Form 410C13-NR and be served on the individuals listed in (b)(1).

~~(3) *The Debtor's Right to File*. The debtor may file and serve the notice if:~~

~~(A) the trustee fails to do so; and~~

~~the debtor contends that the final cure payment has been made andall plan payments have been completed.~~

(4) *Court Determination of a Final Cure and Payment.*

A. *Motion*. After service of the response under (g)(3) or within 45 days after service of the trustee's notice under (g)(1) if no response is filed by the claim holder, the debtor or trustee may file a motion to determine whether the debtor has cured all defaults and paid all required postpetition amounts on a claim described in (a). The motion must be prepared using Form 410C13-M2 and be served on the entities listed in (f)(1).

B. *Response.* If the claim holder disagrees with the facts set forth in the motion, it must file a response within 21 days after the motion is served. The response must be prepared using Form 410C13-M2R and be served on the individuals listed in (b)(1).

C. *Court Determination.* After notice and a hearing, the court must determine whether the debtor has cured all defaults and paid all required postpetition amounts. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an appropriate order based on those facts.

~~(g) RESPONSE TO A NOTICE OF THE FINAL CUREPAYMENT.~~

~~(1) *Required Statement.* Within 21 days~~

after the notice under (f) is served, theclaim holder must file and serve a statement that:

(A) indicates whether:

(i) the claim holder agrees that the debtor has paid in full the amount required to cure any default on the claim; and

(ii) the debtor is otherwise current on all payments under § 1322(b)(5); and

(B) itemizes the required cure or postpetition amounts, if any, that the claim holder contends remain unpaid as of the statement's date.

(2) *Persons to be Served*. The holdermust serve the statement on:

- the debtor;
- the debtor's attorney; and

~~• the trustee.~~

~~(3) *Statement to be a Supplement*. The statement must be filed as a supplement to the proof of claim and is not subject to Rule 3001(f).~~

~~(h) DETERMINING THE FINAL CURE PAYMENT. On the debtor's or trustee's motion filed within 21 days after the statement under (g)is served, the court must, after notice and a hearing, determine whether the debtor has cured the default and made all required postpetition payments.~~

(~~i~~h) CLAIM HOLDER'S FAILURE TO GIVE NOTICE OR RESPOND. If the claim holder fails to provide any information as required by ~~(b), (c), or (g)~~this rule, the court may, after notice and a hearing, ~~take one or bothof these actions~~do one or more of the following:

(1) preclude the holder from presenting the omitted information in any form as evidence in a contested matter or adversary proceeding in the

case—unless the court determines that the failure was substantially justified or is harmless; ~~and~~

(2) award other ~~appropriate~~ relief, including reasonable expenses and attorney's fees caused by the failure and, in appropriate circumstances, noncompensatory sanctions; and

(3) take any other action authorized by this rule.

**Committee Note**

The rule is amended to encourage a greater degree of compliance with its provisions and to allow assessments of a mortgage claim's status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule's applicability, is amended to delete the word "installment" in the phrase "contractual installment payment" in order to clarify the rule's applicability to reverse mortgages, which are not paid in installments.

In addition to stylistic changes, subdivision (b) is amended to provide more detailed provisions about notice of payment changes for home-equity lines of credit ("HELOCs") and to add provisions about the effective date of late payment change notices. The treatment of HELOCs presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can be overly burdensome. Under new subdivision (b)(2), a HELOC claimant may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than $10. This provision also ensures at least 21 days' notice before a payment change takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease.

The changes made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides a procedure for assessing the status of the mortgage at any point before the trustee files the notice under (g)(1). This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to

be informed of any deficiencies in payment and to reconcile records with the claim holder in time to become current before the case is closed. The procedure is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose. The claim holder then must respond if it disagrees with facts stated in the motion, again using an Official Form to provide the required information. If the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determine the status of the mortgage claim. If the claim holder fails to respond or does not dispute the facts set forth in the motion, the court may enter an order favorable to the moving party based on those facts.

Under subdivision (g), within 45 days after the last plan payment is made to the trustee, the trustee must file a notice of final cure and payment. An Official Form has been adopted for this purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount, if any, that the trustee has paid on contractual obligations that came due during the case and whether those payments are current as of the date of the notice. The claim holder then must respond within 28 days after service of the notice, again using an Official Form to provide the required information.

Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion, using the appropriate Official Form, may be filed after the claim holder responds to the trustee's notice under (g)(1), or, if the claim holder fails to respond to the notice, within 45 days after the notice was served. If the claim holder disagrees with any facts in the motion, it must respond within 21 days after the motion is served, using the appropriate Official Form. The court will then determine the

status of the mortgage. A Director's Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). It has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. It also expressly states that noncompensatory sanctions may be awarded in appropriate circumstances. Stylistic changes have also been made to the subdivision.

# TAB 4B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

SUBJECT: SUGGESTIONS REGARDING REQUIRED COURSE ON PERSONAL FINANCIAL MANAGEMENT

DATE: MARCH 3, 2023

Last summer the Subcommittee began considering a suggestion submitted by Professor Laura Bartell (22-BK-D) to change the timing of the notice to chapter 7 and 13 debtors under Rule 5009(b), which reminds them of their need to file a statement of completion of a course on personal financial management. Since that time Tim Truman, a chapter 13 trustee, has submitted a related suggestion (22-BK-K) to change the deadline for chapter 13 debtors to file the statement. These suggestions were considered by the Subcommittee during its January 26 and February 21 meetings.

The Current Requirements

Code § 727(a)(11) provides, subject to limited exceptions, that a debtor will not receive a discharge if "after filing the petition, the debtor failed to complete an [approved] instructional course concerning personal financial management." This restriction applies to individual debtors in chapter 7, in certain chapter 11 cases (*see* § 1141(d)(3)), and in chapter 13 (*see* § 1328(g)(1)). Rule 1007(b)(7) implements these provisions by requiring such a debtor to file a statement of completion of the course.[1] Rule 1007(c) provides the deadline for filing the statement: in a chapter 7 case, 60 days after the first date set for the meeting of creditors; in a chapter 11 or 13 case, no later than the date that the debtor makes the last payment as required by the plan or a

[1] Pending before the Advisory Committee is an amendment to Rule 1007(b)(7) that would change the requirement for filing a statement to requiring the filing of a certificate of course completion issued by the provider. If finally approved, the amendment will become applicable in December 2024.

motion is filed for a hardship discharge. In order to promote the debtor's compliance with these requirements, Rule 5009(b) provides that, if an individual debtor in a chapter 7 or 13 case who is required to file a statement under Rule 1007(b)(7) fails to do so by 45 days after the first date set for the meeting of creditors, the court must promptly notify the debtor of the obligation to do so by the prescribed deadline. The notice must also explain that the failure to comply will result in the case being closed without a discharge.

The Suggestions

Professor Bartell's suggestion arises from research she conducted. She examined all the chapter 7 and chapter 13 cases filed in 2019 on the interactive Federal Judicial Center Integrated Database. She discovered that over 6400 cases—primarily in chapter 7—were closed without a discharge because of the failure to submit a statement of completion of a course concerning personal financial management. Laura B. Bartell, SECTION 727(A)(11) – MODEST PROPOSALS FOR CHANGE at 8 (May 18, 2022, draft). Some of these debtors eventually received a discharge after getting their cases reopened—at additional expense—but others never did, despite having satisfied all of the other requirements for receiving a discharge.

Professor Bartell suggested that, to reduce the number of cases where this problem occurs, the Rule 5009(b) notice should be sent just after the conclusion of the § 341 meeting, rather than 45 days after the first date set for that meeting, and that, to the extent possible, a specific filing deadline should be stated. She explained that, although most debtors file their statements within the 45-day period, "many others now file shortly after they receive the Rule 5009(b) notice, and a significant number file just after the case is closed, suggesting that the fifteen days following the Rule 5009(b) notice was not quite enough time to complete the course and get the certificate filed." Professor Bartell suggested that the notice may not reach the debtor

or may be delayed by changes in address or circumstances and that the debtor's attorney may no longer be in contact with the debtor. A notice sent at the conclusion of the meeting of creditors, she said, is more likely to reach the debtor and to be acted on, especially if it specifies a date by which compliance must occur.

Mr. Truman's suggestion focuses on the deadlines in Rule 1007(c) for filing the statement or certificate of course completion. He suggested that the deadline for chapter 13 debtors be the same as the one for chapter 7 debtors—60 days after the first date set for the meeting of creditors—rather than when the debtor makes the last payment required by the plan. His reason for the suggestion is the following:

> Completion of the personal financial management course at the beginning of the process rather than at the end is more beneficial to the debtor and better insures the successful completion of the plan. It is better for all interested parties for debtors to receive the tools they need to successfully complete their plans early in the process. There is no good reason to delay the personal financial management course.

Prior Discussions of the Bartell Suggestion

Earlier discussions made clear that the Subcommittee shares Professor Bartell's desire to reduce the number of individual debtors who go through bankruptcy but do not receive a discharge because they either fail to take the required course on personal financial management or merely fail to file the needed documentation of their completion of the course.[2] In discussing this proposed amendment, members of the Subcommittee noted Professor Bartell's statement in

[2] In pursuit of the goal of increasing compliance, the Advisory Committee last fall accepted the Forms Subcommittee's recommendation that the initial notices sent to individual debtors in chapter 7 cases—Official Forms 309A and 309B—be proposed for amendment to include a notice of the debtor's obligation to complete a course in personal financial management and the deadline for filing proof of that completion. If approved by the Standing Committee in June, the proposed amendments to the forms will be published for public comment in August.

her suggestion that "[s]ince the amendment to Rule 1007(c)[3] and the adoption of Rule 5009(b), the number of cases closed without a discharge because of the debtor's failure to file the certificate on a timely basis—although still very high—has plummeted."

The issue for the Subcommittee then was whether sending the Rule 5009(b) notice earlier in the case will increase its effectiveness and thereby decrease even further the number of noncompliant debtors in chapter 7 and 13 cases. Professor Bartell suggested that it will do so because at the conclusion of the meeting of creditors, debtors will be focused on their bankruptcy case and are likely to still be in contact with their attorneys and reachable by the court.

The Subcommittee discussed what should be the timing of an earlier notice. Members concluded that the date should not be expressed as a number of days after the conclusion of the meeting of creditors for two reasons. First, the meeting may be continued and not concluded until after the deadline for filing the certificate of course completion. Second, the clerk's office is generally not aware of when the meeting of creditors concludes. The Subcommittee therefore discussed moving up the time of the Rule 5009(b) notice to a number of days after the filing of the petition or after the first date set for the meeting of creditors. It did not settle on a date, however.

The Subcommittee discussed possible alternatives to Professor Bartell's suggestion, such as sending two notices: an earlier notice, as she suggested, and another one 45 days after the first date set for the meeting of creditors, as Rule 5009(b) currently requires. The Subcommittee also questioned, but did not decide, whether there is any need for an earlier notice in chapter 13 cases.

[3] Rule 1007(c) was amended in 2010 to increase the time for filing a statement of course completion in a chapter 7 case from 45 to 60 days after the first date set for the meeting of creditors. At the same time, Rule 5009(b) was added.

The Subcommittee sought input from the Advisory Committee at the fall meeting. Several suggestions were made, and no one expressed opposition to considering amendments to increase compliance with the filing requirement. One member said that chapter 13 should be included in any amendment to send the reminder notice earlier. Another proposed moving up the deadline for filing the statement or certificate, rather than just requiring the reminder notice to be sent earlier, although it was noted that the Committee had previously extended the filing deadline because of debtors' failure to comply. Because of the different time spans of chapter 7 and chapter 13 cases, one member said that perhaps the timing of the reminder notices should be different.

The Subcommittee's Consideration of the Suggestions

Recognizing that probably no set of rules can achieve perfect compliance with the personal-financial-management-course requirements, the Subcommittee would like to improve compliance with them to the extent possible. To determine how the rules might best achieve this goal, the Subcommittee considered a series of issues:

- *Should the Rule 5009(b) notice be sent earlier?* Professor Bartell has made some persuasive arguments for why moving up the notice might increase compliance: it is likely to be more effective because it is more likely to reach the debtor and to be at a time when the debtor is still in touch with her lawyer.
- *Should more than one reminder notice be sent?* The answer to this question requires consideration of the additional burden that would be imposed on the clerk's office and the possible effectiveness of an additional prod to debtors that did not file a certificate of course completion after the first notice.

- *What date or dates should be selected?* The Subcommittee has decided that the timing of the reminder notice should not run from the conclusion of the meeting of creditors, but instead from the petition date or the first date set for the meeting of creditors. In considering the timing of one or two reminder notices, the Subcommittee sought a time period that would allow many debtors to comply on their own without the need for any reminder but would give chapter 7 debtors who needed reminding sufficient time to act.
- *Should the timing of the 5009(b) notice be the same for chapter 7 and chapter 13 debtors?* The Subcommittee thought yes. Whether or not the filing date for chapter 13 debtors is made the same as for chapter 7 debtors, as Mr. Truman suggests, an early reminder date is probably useful for chapter 13 debtors so that fewer will wait until the end of the case to take the course.
- *Should the deadlines for filing the certificates of course completion be changed?* Mr. Truman has suggested that the deadline for chapter 13 debtors be the same as the one for chapter 7 debtors—60 days after the first date set for the meeting of creditors—rather than when the debtor makes the last payment required by the plan. In the course of the Subcommittee's discussion, however, the idea was raised that the rules should impose no deadline for filing the certificate. The Code only requires that the course be taken before a discharge can be granted, and Subcommittee members were concerned that some debtors might be deprived of a discharge merely because they failed to file their certificates by the times specified in the rules.

The Subcommittee's Proposals

Following the Subcommittee's wide-ranging discussion, its members voted on which of a number of options they preferred. Everyone favored eliminating the deadlines for filing

certificates of completion. The deadlines were viewed as artificial barriers in the way of a obtaining discharge. This change could be accomplished by deleting Rule 1007(c)(4) of the restyled rule:

**Rule 1007. Lists, Schedules, Statements, and Other Documents; Time to File**[4]

* * * * *

(b) **Schedules, Statements, and Other Documents.**

* * * * *

(7) *Personal Financial-Management Course*. Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition or the debtor is not required to complete one as a condition to discharge, an individual debtor in a Chapter 7 or 13 case—or in a Chapter 11 case in which § 1141(d)(3) applies—must file a certificate of course completion issued by the provider.

* * * * *

(c) Time to File.

* * * * *

~~(4) *Financial-Management Course*. Unless the court extends the time to file, an individual debtor must file the certificate required by (b)(7) as follows:~~

~~(A) in a Chapter 7 case, within 60 days after the first date set for the meeting of 27 creditors under § 341; and~~

~~(B) in a Chapter 1 or Chapter 13 case, before the last payment is made under the plan or before a motion for a discharge is filed under § 1141(d)(5)(B) or § 1328(b).~~

* * * * *

[4] The changes indicated for each of the rules in this memo are as those rules are currently proposed for restyling. The restyled Bankruptcy Rules are expected to go into effect December 1, 2024, if approved by the Standing Committee, the Judicial Conference, and the Supreme Court, and if Congress takes no action to the contrary.

If this amendment is adopted, references to the deadlines in Rule 9006(b)(3) and (c)(2) would have to be deleted.[5] In addition, the recently proposed amendments to Official Forms 309A and 309B would have to be revised.[6]

With respect to the reminder notices under Rule 5009(b), most Subcommittee members favored providing for two notices—one relatively early in the case and a follow-up notice to those who did not file a certificate after the first notice. The Subcommittee was split on whether the timing of the first notice should remain as it currently is (45 days after the first date set for the meeting of creditors under § 341(a)) or should be earlier in the case. These two possible amendments to Rule 5009 could be drafted as follows:

**(A)**

**Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied**

* * * * *

(b) **Chapter 7 or 13—Notice of a Failure to File a Certificate of Completion of a Course on Personal Financial Management.** This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a certificate under Rule 1007(b) and fails to do so within 45 days after the first date set for the meeting of creditors under § 341(a). The clerk must promptly notify the debtor that the case will be closed without entering a discharge if the statement is not filed ~~within the time prescribed by Rule 1007(c)~~. If the debtor still has not filed the certificate within 75 days after the first date set for the meeting of creditors, the clerk must again promptly notify the debtor that the case will be closed without entering a discharge if the statement is not filed.

* * * * *

**(B)**

**Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied**

* * * * *

[5] Rule 9006(b)(3) provides that "the court may enlarge the time to file the statement required under Rule 1007(b)(7)," and Rule 9006(c)(2) says that "the court may not reduce the time under Rule 1007(c) to file the statement required under Rule 1007(b)(7)."

[6] As approved for publication at the fall meeting, both forms give notice of the deadline for filing certificates of course completion in chapter 7 cases.

(b) **Chapter 7 or 13—Notice of a Failure to File a Certificate of Completion of a Course on Personal Financial Management.** This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a certificate under Rule 1007(b) and fails to do so within 45 days after the ~~first date set for the meeting of creditors under § 341(a)~~ petition filing. The clerk must promptly notify the debtor that the case will be closed without entering a discharge if the statement is not filed ~~within the time prescribed by Rule 1007(c)~~. If the debtor still has not filed the certificate within 60 days after the first date set for the meeting of creditors, the clerk must again promptly notify the debtor that the case will be closed without entering a discharge if the statement is not filed.

* * * * *

Advisory Committee Consideration

The Subcommittee looks forward to a robust discussion of these proposals at the spring meeting. No one wants to see debtors go through a bankruptcy case and not receive a discharge because they failed to take the required personal-financial-management course or, even worse, merely failed to file the certificate showing that they took it. How best to prevent this from happening is not clear-cut. Even if there is agreement on the Subcommittee's basic approach—no deadlines, two reminder notices—, which there may not be, the precise details needs to be resolved. The Subcommittee seeks the input of the full Advisory Committee.

# TAB 4C

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

SUBJECT: SUGGESTION FOR AMENDING RULE 1007(h)

DATE: MARCH 3, 2023

Judge Catherine McEwen has submitted a suggestion (22-BK-H) to require the reporting of a debtor's acquisition of postpetition property in the chapter 11 case of an individual or in a chapter 12 or 13 case. This suggestion was considered by the Subcommittee at its January 26 and February 21 meetings.

## The Suggestion

Judge McEwen noted that Rule 1007(h) (Interests Acquired or Arising After Petition) requires the filing of a supplemental schedule only for property covered by § 541(a)(5)—that is, property acquired within 180 days after the filing of the petition by bequest, devise, or inheritance; as a result of a property settlement with a spouse or a divorce; or as beneficiary of a life insurance policy. Not included within Rule 1007(h) are other postpetition property interests that become property of the estate under § 1115, 1207, or 1306.

Judge McEwen suggested that, for the sake of transparency, the rules should impose a deadline for the disclosure of these other postpetition property acquisitions. She pointed out that a number of bankruptcy courts have imposed such requirements by local rule or administrative order.

## Current Code and Rule Requirements

Sections 1115, 1207, and 1306 of the Code bring into the bankruptcy estate property that the debtor acquires after commencement of the case and before the case is closed, dismissed, or

converted, as well as earnings for services performed by the debtor during that same period. No Code or Bankruptcy Rule provision expressly requires that a debtor disclose the acquisition of such property,[1] although some disclosure is required by § 521(f). That provision requires a chapter 7, 11, or 13 individual debtor to file with the court, upon request, a copy of his or her federal income tax returns while the case is pending.

The reason for the absence of a disclosure requirement for §§ 1115, 1207, and 1306 property has been explained as follows:

> Because all property acquired postpetition can become property of the estate, at least until confirmation of the plan, to require scheduling of such property would be completely impracticable. The debtor's cash on hand could, literally, change every day, as items are purchased and new paychecks are received. Similarly, every item purchased or discarded could provide cause for amending the schedules. The primary purpose of sections 1207 and 1306 is to give the protection of section 362(a) to property acquired postpetition in order to ensure the debtor's ability to perform under a plan.

9 Richard Levin & Henry J. Sommer, COLLIER ON BANKRUPTCY ¶ 1007.08 (16th ed. 2022); *accord In re* Boyd, 618 B.R. 133, 150–51 (Bankr. D.S.C. 2020) ("Would every new refrigerator, every traded car, every dollar change in income, every new expense be required to be disclosed? When would such disclosure be required? Such an approach would not only be impractical but would virtually inundate the court with filings and impair the efficiency of the chapter 13 process.").

Courts that have required disclosure of postpetition property by local rule, administrative order, or model chapter 13 plan have not required disclosure of all the property covered by §§ 1115, 1207, and 1306. Instead, they have limited the requirement to specific types of property or

[1] One court has found a disclosure requirement in § 521(a)(3) and Rule 4002(a)(4). Those provisions require a debtor to cooperate with the trustee in a case, which the court interpreted as including a duty of disclosure for substantial and unanticipated changes in the debtor's financial condition. *In re* Ilyev, 2022 Bankr. LEXIS 2046, at *11 (Bankr. E.D. Va. July 26, 2022).

acquisitions that are sufficiently substantial to affect the debtor's financial circumstances. *See, e.g.,* Local Form 4 (Chapter 13 Plan) 8.1.7 (Bankr. W.D.N.C.) ("The Debtor shall notify the Chapter 13 trustee of any substantial acquisitions of property or significant changes in net monthly income that may occur during the pendency of the case and shall amend the appropriate schedules previously filed in the case accordingly."); Chapter 13 Plan 8.1 h (Bankr. M.D.N.C.) ("The Debtor must promptly report to the Trustee and must amend the petition schedules to reflect any significant increases in income and any substantial acquisitions of property such as inheritance, gift of real or personal property, or lottery winnings."); Administrative Order Prescribing Procedures for Chapter 13 Cases Filed on or After August 1, 2020 (Bankr. S.D. Fla.) ("Debtor's Duty to Supplement. Debtor shall promptly disclose to the Trustee and file amendments with the Court reporting all changes of Debtor's financial circumstances, including, but not limited [to], inheritances, personal injury settlements, new or additional employment, loss of employment, or reduction or increase to income.").

The Subcommittee's Consideration of the Suggestion

The Subcommittee questioned whether a problem exists that needs to be solved. There is no indication that courts are being prevented from requiring chapter 12 and 13 debtors and individual debtors in chapter 11 cases to supplement their schedules to report acquisitions of property or income increases while their cases are pending. Indeed, courts have found several ways to impose such a requirement.

Nor does it appear that the Bankruptcy Rules need to be amended in this regard in order to be consistent with the Code. As discussed above, there is no express statutory obligation to report acquisitions of property covered by §§ 1115, 1207, and 1306. The Subcommittee noted that in 2005, when Congress imposed the requirement for the filing of postpetition tax returns

upon request, it did not impose a broader requirement regarding the reporting of all postpetition property acquisitions.

The Subcommittee recognized, however, that the absence of a Code disclosure requirement does not mean that one cannot be imposed by rule if there are good reasons for doing so. For example, the Code does not require the supplementation of schedules to report § 541(a)(5) property, yet Rule 1007(h) does so. The Subcommittee also considered whether the desire for uniformity might support an amendment to Rule 1007(h). Debtors in some districts are required to disclose the acquisition of postpetition property that becomes property of the estate, while debtors in other districts are not.

The Subcommittee noted, however, that chapter 13 practice is nonuniform in a number of respects. The Advisory Committee's experience with a national chapter 13 plan form showed that courts have well developed local practices that they are reluctant to change.

The Subcommittee also considered the challenge of drafting an effective amendment to Rule 1007(h) to include property under §§ 1115, 1207, and 1306. As discussed above, it is not feasible to include within a supplementation requirement all postpetition property that comes within those provisions. Either specific types of property need to be stated, or the rule needs to describe some degree of impact on the debtor's financial condition, such as substantial or significant. A specification of types of property gives greater guidance, but it runs the risk of being underinclusive.

In the end, the Subcommittee concluded that bankruptcy courts have developed their own practices for whether and how they require disclosure of postpetition property by debtors in chapter 11, 12, and 13 cases, and it did not see any reason to disturb those practices.

**Accordingly, the Subcommittee recommends that no further action be taken on this suggestion.**

# TAB 4D

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

SUBJECT: COMMENT ON AMENDMENT TO RULE 7001

DATE: MARCH 2, 2023

In August 2022 the Standing Committee published a proposed amendment to Rule 7001 (Types of Adversary Proceedings) that would allow the turnover of certain estate property to be sought by motion rather than by adversary proceeding. The original suggestion for an amendment was prompted by Justice Sotomayor's concurring opinion in *City of Chicago v. Fulton,* 141 S. Ct. 585, 595 (2021), in which she wrote that "[i]t is up to the Advisory Committee on Rules of Bankruptcy Procedure to consider amendments to the Rules that ensure prompt resolution of debtors' requests for turnover under § 542(a), especially where debtors' vehicles are concerned."

The rule as published and accompanying Committee Note provide as follows:

**Rule 7001. Types of Adversary Proceedings**[1]

An adversary proceeding is governed by the rules in this Part VII. The following are adversary proceedings:

(a) a proceeding to recover money or property—except a proceeding to compel the debtor to deliver property to the trustee, a proceeding by an

[1] The changes indicated are to Rule 7001 as currently proposed for restyling. The restyled Bankruptcy Rules are expected to go into effect December 1, 2024, if approved by the Standing Committee, the Judicial Conference, and the Supreme Court, and if Congress takes no action to the contrary.

individual debtor to recover tangible personal property under § 542(a), or

a proceeding under § 554(b), § 725, Rule 2017, or Rule 6002;

* * * * *

Committee Note

Paragraph (a) is amended to create an exception for certain turnover proceedings under § 542(a) of the Code. An individual debtor may need to obtain the prompt return from a third party of tangible personal property—such as an automobile or tools of the trade—in order to produce income to fund a plan or to regain the use of property that may be exempted. As noted by Justice Sotomayor in her concurrence in *City of Chicago v. Fulton*, 141 S. Ct. 585, 592-95 (2021), the more formal procedures applicable to adversary proceedings can be too time-consuming in such a situation. Instead, the debtor can now proceed by motion to require turnover of such property under § 542(a), and the procedures of Rule 9014 will apply. In an appropriate case, however, Rule 9014(c) allows the court to order that additional provisions of Part VII of the rules will apply to the matter.

Only one comment on the proposed amendment was submitted in response to publication (BK-2022-0002-0009). Bonial & Associates, P.C., a creditor law firm, wrote that it supported the amendment because it "will streamline the turnover process and should create consistency nationally." The comment noted the inconsistencies in current turnover practices from one district to another and stated that "[c]reditors would benefit from one national and consistent approach to turnovers across all jurisdictions."

**The Subcommittee recommends that the Advisory Committee approve the amendment to Rule 7001 as published and send it to the Standing Committee for its final approval.**

# TAB 4E

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 21-BK-G – Rule 1007(b)(7)

DATE: FEB. 25, 2022

We published proposed amendments to Rule 1007(b)(7) which requires as follows:

> "(7) ***Personal Financial-Management Course.*** Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which § 1141(d)(3) applies—must file a statement that such a course has been completed (Form 423)."

The proposed amendments would make the rule inapplicable to debtors who are not required to complete an instructional course concerning personal financial management as a condition to discharge, and require an individual debtor who has completed the course to file a certificate of course completion issued by the provider rather than a statement on Official Form 423. The changes to the rule are shown below:

> "(7) ***Personal Financial-Management Course***[1]**.** Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition or the debtor is not required to complete such a course as a condition to discharge, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which § 1141(d)(3) applies—must file a ~~statement that such a course has been completed (Form 423)~~ certificate of course completion issued by the approved provider."

Advisory Committee Note

Rule 1007(b)(7) is amended in two ways. First, language is added to make the rule inapplicable to debtors who are not required to complete an instructional course concerning personal financial management as a condition to discharge. See § 727(a)(11), § 1328(g)(2),

[1] The changes indicated are to the restyled version of Rule 1007 being presented to the Advisory Committee at its meeting in March 2023 and include changes made after the "top-to-bottom" review by the style consultants and the Restyling Subcommittee. The restyled bankruptcy rules are expected to go into effect December 1, 2024, if approved by the Standing Committee, the Judicial Conference, and the Supreme Court, and if Congress takes no action to the contrary.

§ 1141(d)(3)(C). Second, the rule is amended to require an individual debtor who has completed an instructional course concerning personal financial management to file the certificate of course completion (often called a Certificate of Debtor Education) issued by the approved provider of that course in lieu of filing an Official Form if the provider has not notified the court that the debtor has completed the course.

Conforming amendments to Rules 1007(c)(4), 4004(c)(1)(H), 4004(c)(4), 5009(b), 9006(b)(3) and 9006(c)(2) to replace the word "statement" in each of those rules with the word "certificate" were also published.

There were no comments on the proposed amendments.

**The Subcommittee recommends that the Advisory Committee approve the amendments and send them to the Standing Committee for final approval.**

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]**

**Rule 1007. Lists, Schedules, Statements, and Other Documents; Time to File[2]**

* * * * *

(b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS.

* * * * *

(7) *Personal Financial-Management Course.* Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition or the debtor is not required to complete one as a condition to discharge, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11

[1] New material is underlined in red; matter to be omitted is lined through.

[2] The changes indicated are to the restyled version of Rule 1007, not yet in effect, which is included elsewhere in this agenda book.

case in which § 1141(d)(3) applies—must file a ~~statement that such a course has been completed (Form 423)~~ certificate of course completion issued by the provider.

* * * * *

(c) TIME TO FILE.

* * * * *

(4) *Financial-Management Course.* Unless the court extends the time to file, an individual debtor must file the ~~statement~~ certificate required by (b)(7) as follows:

(A) in a Chapter 7 case, within 60 days after the first date set for the meeting of creditors under § 341; and

(B) in a Chapter 11 or Chapter 13 case, no later than the date the last payment is made under the plan, or the date a motion for

a discharge is filed under§ 1141(d)(5)(B) or § 1328(b).

* * * * *

**Committee Note**

Rule 1007(b)(7) is amended in two ways. First, language is added to make the rule inapplicable to debtors who are not required to complete an instructional course concerning personal financial management as a condition to discharge. *See* § 727(a)(11), § 1328(g)(2), § 1141(d)(3)(C). Second, the rule is amended to require an individual debtor who has completed an instructional course concerning personal financial management to file the certificate of course completion (often called a Certificate of Debtor Education) issued by the approved provider of that course in lieu of filing an Official Form, if the provider has not notified the court that the debtor has completed the course.

The amendment to Rule 1007(c)(4) reflects the amendment to Rule 1007(b)(7) described above.

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]**

**Rule 4004. Granting or Denying a Discharge[2]**

* * * * *

(c) GRANTING A DISCHARGE.

(1) *Chapter 7.* In a Chapter 7 case, when the times to object to discharge and to file a motion to dismiss the case under Rule 1017(e) expire, the court must promptly grant the discharge—except under these circumstances:

* * * * *

(H) the debtor has not filed a ~~statement~~ certificate showing that a course on personal financial management has been completed—if

[1] New material is underlined in red; matter to be omitted is lined through.

[2] The changes indicated are to the restyled version of Rule 4004, not yet in effect, which is included elsewhere in this agenda book.

such a ~~statement~~ certificate is required by Rule 1007(b)(7);

* * * * *

(4) *Individual Chapter 11 or Chapter 13 Case.* In a Chapter 11 case in which the debtor is an individual—or in a Chapter 13 case—the court must not grant a discharge if the debtor has not filed a ~~statement~~ certificate required by Rule 1007(b)(7).

* * * * *

**Committee Note**

The amendments to Rule 4004(c)(1)(H) and (c)(4) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**[1]

**Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied**[2]

* * * * *

(b) CHAPTER 7 OR 13—NOTICE OF A FAILURE TO FILE A ~~STATEMENT ABOUT COMPLETING~~ CERTIFICATE OF COMPLETION FOR A COURSE ON PERSONAL FINANCIAL MANAGMENT. This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a ~~statement~~ certificate under Rule 1007(b)(7) and fails to do so within 45 days after the first date set for the meeting of creditors under § 341(a). The clerk must promptly notify the debtor that the case will be closed without entering a

[1] New material is underlined in red; matter to be omitted is lined through.

[2] The changes indicated are to the restyled version of Rule 5009, not yet in effect, which is included elsewhere in this agenda book.

discharge if the ~~statement~~ certificate is not filed within the time prescribed by Rule 1007(c).

* * * * *

**Committee Note**

The amendments to Rule 5009(b) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**[1]

**Rule 9006. Computing and Extending Time; Motions**[2]

* * * * *

(b) EXTENDING TIME.

* * * * *

(3) *Extensions Governed by Other Rules.* The court may extend the time to:

* * * * *

(B) file the ~~statement~~ certificate required by Rule 1007(b)(7), and the schedules and statements in a small business case under § 1116(3)—but only as permitted by Rule 1007(c).

---

[1] New material is underlined in red; matter to be omitted is lined through.

[2] The changes indicated are to the restyled version of Rule 9006, not yet in effect.

(c) REDUCING TIME LIMITS.

* * * * *

(2) *When Not Permitted.* The court may not reduce the time to act under Rule 2002(a)(7), 2003(a), 3002(c), 3014, 3015, 4001(b)(2) or (c)(2), 4003(a), 4004(a), 4007(c), 4008(a), 8002, or 9033(b). Also, the court may not, under Rule 1007(c), reduce the time to file the ~~statement~~ certificate required by Rule 1007(b)(7).

**Committee Note**

The amendments to Rules 9006(b)(3)(B) and (c)(2) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

# TAB 5

# TAB 5A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: RULE 3002.1 FORMS

DATE: MARCH 2, 2023

In 2021 the Standing Committee published 5 forms drafted to implement proposed amendments to Rule 3002.1 (Official Forms 410C13-1N, 410C13-1R, 410C13-10C, 410C13-10NC, 410C13-10R). Because of the substantial comments that were submitted about the rule amendments, this Subcommittee deferred considering the comments submitted on the forms until after the Consumer Subcommittee completed its recommendations on changes to be made to the rule in response to comments. At last fall's Advisory Committee meeting, that subcommittee presented its recommendations, which were approved. Since then, the Consumer Subcommittee has made some additional changes to the Rule 3002.1 draft, for which it is seeking approval at this meeting. The revised draft of Rule 3002.1, as approved by the Consumer Subcommittee for republication, appears at Tab 4A of the agenda book.

This Subcommittee has now considered changes to the forms in response to the comments submitted after their publication and reflecting the proposed changes to the Rule 3002.1 amendments. A summary of the comments on the forms and the drafts of 6 new forms follow in the agenda book.

## The Forms

The new forms no longer include a mandatory midcase-trustee notice of the status of the mortgage. Instead, either the trustee or the debtor may choose to file a motion to determine the status of the mortgage claim at any point during the case prior to the trustee's Final Notice of

Payments Made. Official Form 410C13-M1 was drafted for that purpose. No distinction is made between conduit and non-conduit cases. The moving party—either the trustee or debtor—must only provide the information that she has knowledge of. Official Form 410C13-M1R is the form for the claim holder's response to that motion.

After the debtor completes all payments due to the trustee under a chapter 13 plan, the trustee must file a notice of payments made on the mortgage. Official Form 410C13-N was drafted for that purpose. The claim holder then must file a response, using Official Form 410C13-NR.

If either the trustee or debtor wants a final determination of the mortgage's status at the end of the case, he can file a Motion to Determine Final Cure and Payment, using Official Form 410C13-M2. The claim holder, if it disputes any facts in the motion, must then file a response, using Official Form 410C13-M2R.

Recommendation

**The Subcommittee recommends that the Advisory Committee approve the 6 forms and the Committee Note for publication.**

Comments on Published Rule 3002.1 Related Forms

**Kyle Craddock (BK-2021-0017)** – Forms 410C13-1R and 410C13-10R would be improved by requiring the mortgage lender to provide the current principal balance. This is by far the most common question I receive from clients at the end of a successful chapter 13. Since the mortgage servicer is filing a response after looking at its records, this would be an excellent time to have it provide this information. Otherwise, we have to send them RESPA requests, or just wait for billing statements to resume.

Form 410C13-10NC doesn't make sense to me. What is the trustee certifying? They are going to want to get records from the debtors that (while I agree should be available) I can imagine often being less than helpful/complete/correct.

**Henry Hildebrand (BK-2021-0018)** – Some of my trustee colleagues in non-conduit jurisdictions are reluctant to initiate the "true-up" if they lack the records to back them up. I believe that the proposed rule as drafted would work in both situations – "conduit" and "non-conduit" – by changing the Official Form 410C13-10NC language in section 6 (the prayer section) as follows:

> 6. Therefore, I ask the court for an order under Rule 3002.1(h) determining that, as of the date of this motion, the debtor has cured the prepetition arrearage on the mortgage. I also ask the court to determine the status of the long-term mortgage obligation treated in the Plan and whether the payments required by the plan have been made.

**National Consumer Law Center Inc. (BK-2021-2022)** – The current Notice of Payment Change, Official Form 410S1, provides for disclosure of only one payment amount, the "New total payment." We recommend that Official Form 410S1 be modified to include a disclosure of the one-time "next payment" that includes the reconciliation amount under Rule 3002.1(b)(3)(C), and a separate disclosure of the new payment amount without reconciliation under Rule 3002.1(b)(3)(D). Alternatively, a committee note should be added that instructs claim holders to make appropriate modifications to Official Form 410S1 in order to comply with the HELOC requirements.

Proposed Official Form 410C13-1R is the form the claim holder files in response to the trustee's notice for midcase review. In part 4 of the form, if the claim holder disagrees with the trustee's notice, it must provide an itemized payment history, and the form lists the items to be provided. We suggest that the form require that the payment history information be provided in the same format as used on Official Form 410A, prepared with payment information from the filing of the petition through the date of the response. This would ease compliance, as mortgage servicers are accustomed to preparing payment histories in this format.

**Corrine Bielejeski (BK-2021-0002-0024)** – The new forms overcomplicate the matter. The current forms do a good job of explaining whether debtors are current and what a creditor believes is the payment history. The proposed form for the end-of-case motion, particularly as it relates to nonconduit cases, asks trustees to make factual statements that they may not have the

information to report. I suggest keeping the current notice procedure or limiting any end of case motions to the information they have – namely what payments have been made to them. In non-conduit cases, this may mean they are asking the court to determine the status of the loan, not asking the court to determine that debtors are current.

**Beverly Burden (BK-2021-0002-0026)** – The trustee can easily file a motion to determine the status of the mortgage to get the process started. By filing such a motion in accordance with the rule, the trustee does not need to make any statement of fact; the trustee does not need to ask that the debtor be deemed current in their mortgage. To the extent the proposed forms require non-conduit trustees to make these allegations, the forms are flawed.

**Neil Jonas (BK-2021-0002-0030)** – The proposed Form 410C13-10NC refers to either the trustee or the debtor making the "ongoing post-petition mortgage payments." But as the comment to the rule points out, reverse mortgages do not necessarily have ongoing mortgage payments. So, regardless of the supposed expanded scope of the rule, the forms do not accommodate reverse mortgages.

**James Davis (BK-2021-0002-0031)** – Mid-case forms. In Part 1, add a line to specify the servicer, if different than the claim holder, at least on the claimholder response form.

In Part 2, add lines to both forms for arrearages that arise postpetition but preconfirmation ("gap" arrearages). In some districts (including the Middle District of Tennessee), the standard practice is to include preconfirmation payments in the arrearage. Confusion about the accounting for these amounts is probably the most common source of discrepancies between the records of the trustee and claim holders. Also include lines on both forms for postpetition fees, expenses, and charges.

In Part 3 of both forms, the term "current" might be confusing. Does it refer to the payment for the month of the notice, even if a payment change is taking effect with the next disbursement? If the payments are in default, is it the payment the trustee would be making if the claim were current?

In Part 4 of the form for the trustee's notice, the Official Form is identified as 410C13-R. The form number at the top of the proposed form is 410C13-**1**R.

End-of-case forms. As with the mid-case forms, add a line to specify the servicer if different than the claimholder, at least on the claimholder response form.

Paragraph 6 of the conduit trustees' motion asks the court to determine the status as of the date of the motion. Under the rule's timeline, however, the trustee might be making this request after a post-bankruptcy payment has come due. I would suggest either revising the form to request a determination of the status as of the last disbursement by the trustee or to incorporate the language from the non-conduit form acknowledging that the request relies on information the trustee might not have.

The nonconduit form seems to assume that nonconduit trustees would pay any allowed postpetition fees, expenses, or charges. Is that correct, or should the form reflect the possibility that a nonconduit trustee might not disburse those amounts?

**Pam Bassel (BK-2021-0002-0025)** – Midcase forms: **Official Form 410C13-1N** (the trustee's form) should include an "as of" date. For example, "As of the date of the filing of this Midcase Notice, the status of the Mortgage Claim is as follows." If a specific date is not given, my office's experience with our midcase notice procedure is that the claim holder will file responses that could be avoided. For example, when a payment comes due after the midcase notice is filed, but before a response is filed, the claim holder, not wanting to create a waiver argument, files a response stating that this additional payment has come due since the filing of the trustee's notice. Setting out a specific date avoids this problem and provides the parties with a true snapshot of the mortgage status as of a date certain.

As drafted, the form for the Trustee's Midcase Notice breaks the possible payments by the trustee to a claim holder into only two potential components of the claim, prepetition arrears and postpetition ongoing payments. However, the mortgage industry specifically requested that on the payment vouchers the trustees send to them, we break our disbursements into various components of the claim, and the trustees accommodated the industry. The components into which a claim can be divided, whether the case is conduit or non-conduit, are the ongoing postpetition payments; prepetition arrears; gap period payments (conduit cases only); postpetition arrears; and fees, expenses, or charges asserted per Rule 3002.1. When the total debt is paid through the plan by the trustee, the claim components are the principal and interest paid on the claim; the remaining principal balance; and fees, expenses, or charges. All the possible components of the claim may not be relevant in each case. However, only by including all the possible claim components in the trustee's midcase notice will you get a true snapshot of the status of the claim.

Because a variety of possibilities exist about who the disbursing agent is on various components of the claim, it really is a bit of a misnomer to divide mortgage loan repayment into "conduit" and "non-conduit." For example, you might have a case in which the debtor is paying the ongoing postpetition payments, but the trustee is disbursing on prepetition arrears and postpetition arrears. You could have a case in which the trustee is disbursing the ongoing postpetition payments, but the debtor is paying the fees, expenses, and charges directly to the claim holder. It is more accurate to divide the components of a claim into the categories of "disbursed by the trustee" or "disbursed by the debtor."

Regarding the ongoing postpetition mortgage payments, on the midcase notice form as proposed, the trustee selects whether these payments are made by the debtor or the trustee and, if made by the trustee, we are required to provide the current monthly payment amount and the next due date for the ongoing payments. Regarding the date, after the phrase "Next mortgage payment due," it would be helpful if the day of the month were deleted. Trustees generally disburse once a month. So, even if the debtor's ongoing payment is contractually due on the tenth of the month, my office will disburse that payment as if it is due on the first. It would cause the trustees' offices less administrative headache to just recite the month/year since many

of us to do not rely on the specific day of the month a payment is due per the mortgage note or even have the actual contractual due date of the mortgage payment in our database.

If the debtor is making ongoing payments to the claim holder, there is nothing in the midcase notice form about the status of those direct payments. None of the trustees will have the information needed to state the status of payments made by the debtor. The way we handle that in my district is that our notice states "The **ONGOING POST-PETITION MORTGAGE PAYMENTS** are to be paid directly by the Debtor. The Trustee has no knowledge of the status of those Ongoing Payments, or any Post-petition Arrearage thereon. **IF A RESPONSE IS NOT FILED THE DEBTOR'S ONGOING MORTGAGE PAYMENT WILL BE DEEMED CURRENT."** This language avoids the Trustee making assertions about which he/she has no knowledge but makes it clear to the claim holder that if no response is filed, the ongoing payments will be deemed current as of the date the notice/motion was filed.

It is next to impossible to create a form pleading that covers every possible situation. In the trustee's notice and the claim holder's response forms, it would be helpful if there was a non-standard language section in which the trustee could include any other pertinent information which he/she believes should be part of the pleading.

End-of-case forms: **Official Form 410C13-10C**. The form should include an "as of" date or a statement that this is the status of the mortgage as of the date the Motion is filed as discussed previously. Also, it would be helpful if the motion included a clear response deadline.

Paragraph 1 **-** There is no need for the trustee to attach a copy of the disbursement ledger if it is available online. The trustee could instead provide the web address to access the ledger.

Paragraph 3 **-** Since the mortgage industry specifically requested the trustees to include a separate component for gap period payments and the trustees did that, to get a complete picture of what has been paid, that component should be included in this paragraph. Also, why are the trustees being asked to total the amount of arrears paid [see 3(e)]? If we set out the correct claim components and how much was paid on each, this is unnecessary.

Paragraph 5 – Same comment as above about deleting the precise day of the month that the next payment is due.

Paragraph 6 **-** On the last line, the word "allowed" should be inserted before the words "postpetition fees, etc." Some fees, expenses, and charges could have been disallowed during the pendency of the case.

Include a non-standard language section in the motion for the reasons stated previously regarding the midcase notice/motion.

**Official Form 410C13-10NC**. Even those of us who are in conduit jurisdictions will still be handling non-conduit cases because not every debtor is required to be a conduit debtor. It depends on the status of the loan when the case is filed.

Include an "as of" date or a statement that this is the status of the mortgage as of the date the motion. The motion should also include a response deadline.

Paragraphs 1 and 3 – Same comments as on the conduit motion form.

Paragraphs 5 and 6 **-** The prayer requires the trustee to ask for a finding about which the trustee has no personal knowledge: whether all post-petition ongoing payments have been made and, in some cases, whether all fees, expenses, and charges or all postpetition arrears have been paid. Many trustees have expressed the concern that including matters in the prayer about which the trustee has no personal knowledge is a violation of Rule 9011. I do not agree with that analysis, but the problem could be solved by revising paragraph 5 to read:

> The trustee has no knowledge of the status of any payments made by the debtor directly to the claim holder. IF A RESPONSE TO THIS MOTION IS NOT FILED BY THE CLAIM HOLDER, ALL PAYMENTS THE DEBTOR WAS REQUIRED TO MAKE DIRECTLY TO THE CLAIM HOLDER SHALL BE DEEMED CURRENT AS OF THE DATE OF THE FILING OF THIS MOTION.

Paragraph 6 could be amended to read:

> Therefore, the trustee asks the court for an order under Rule 3002.1(h) determining that, as of the date of the filing of this motion, (1) the prepetition arrears and (2) any postpetition arrears and/or allowed postpetition fees, expenses and charges have been paid in full by the trustee, if the trustee was the disbursing agent for those payments. The trustee asks for a further order of this court that, unless disputed by the claim holder, all payments the debtor was required to make directly to the claim holder (about which the trustee has no personal knowledge) have been paid in full and that the debtor is current on all payments to the claim holder as of the date of the filing of this motion.

Include a non-standard language section.

**Official Form 410C13-10R**. For consistency, the response form should contain all the information that the rule requires to be included in the order [see 3002.1(h)(4)(A)(iii)]. The rule requires a breakdown of the next payment due, separately identifying the amount due for principal, interest, mortgage insurance, taxes, and other escrow amounts, as applicable. This breakdown should be included in the claim holder's response. A good place for this would be paragraph 3, underneath the line that reads "Amount of the next postpetition payment that is due:". Delete the reference to 1322(b)(5) both places it appears. There is no need for that reference, and it adds confusion.

It would be helpful if the claim holder reported, as separate line items, unpaid fees, expenses, or charges; negative escrow amounts; and costs due and owing, instead of adding all of those figures together and reporting only the total.

Include a non-standard language section.

United States Bankruptcy Court

_____ District of _____

In re _____, Debtor Case No. _____
Chapter 13

**Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim**

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

**Name of Claim Holder:**_____ **Court claim no**. (if known):_____

**Last 4 digits** of any number used to identify the debtor's account: ___ ____ ____ ____

**Property address:** _____

_____
City State ZIP Code

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

a. Allowed amount of the prepetition arrearage, if any: $ _____

b. Total amount of the prepetition arrearage paid, if known: $ _____

c. Allowed amount of postpetition arrearage, if any: $ _____

d. Total amount of postpetition arrearage paid, if known: $ _____

e. Total amount of arrearages paid: $ _____

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

a. Amount of postpetition fees, expenses, and charges noticed and allowed under Rule 3002.1(c): $ _____

b. Amount of postpetition fees, expenses, and charges paid: $ _____

4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition contractual obligations: $ _____

5. I ask the court for an order under Rule 3002.1(f)(3) determining the status of the mortgage claim addressed by this motion and whether the payments required by the plan to be made as of the date of this motion have been made.

Signed: _____
(Trustee/Debtor)

Date: _____

United States Bankruptcy Court
_____ District of _____

In re _____, Debtor Case No. _____
Chapter 13

**Response to [Trustee's/Debtor's] Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim**

_____ (claim holder) states as follows:

1. The following information relates to the mortgage claim at issue:

**Name of Claim Holder:**_____ **Court claim no**. (if known):_____

**Last 4 digits** of any number used to identify the debtor's account: ___ ____ ____ ____

**Property address:** _____

_____
City State ZIP Code

2. Arrearages

Check one:

- ❑ As of the date of this response, the debtor has paid in full the amount required to cure any arrearage on this mortgage claim.

- ❑ As of the date of this response, the debtor has not paid in full the amount required to cure any arrearage on this mortgage claim. The total arrearage amount remaining unpaid as of the date of this response is:

  $ _____.

3. Postpetition Contractual Payments

Check all that apply:

- ❑ The debtor is current on all postpetition contractual payments, including all fees, charges, expenses, escrow, and costs. The claim holder attaches a payoff statement and provides the following information as of the date of this response:

  Date last payment was received on the mortgage: _____

  Date next postpetition payment from the debtor is due: _____

Amount of the next postpetition payment that is due: $_____

Unpaid principal balance of the loan: $_____

Additional amounts due for any deferred or accrued interest: $_____

Balance of the escrow account: $_____

Balance of unapplied funds or funds held in a suspense account: $_____

- ❑ The debtor is not current on all postpetition payments. The debtor is obligated for the postpetition payment(s) that first became due on: ____/_____/_____.
  MM / DD / YYYY

- ❑ The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing. The total amount remaining unpaid as of the date of this response is $_____.

4. Itemized Payment History

Include if applicable:

Because the claim holder asserts that the arrearages have not been paid in full or states that the debtor Is not current on all postpetition payments or that fees, charges, expenses, escrow, and costs are due and owing, the claim holder attaches an itemized payment history—using the format of Official Form 410A, Part 5—disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses assessed to the mortgage; and
- all amounts the creditor contends remain unpaid.

_____ Date ____/_____/_____
Signature

Print _____ Title _____
Name

Company _____

If different from the notice address listed on the proof of claim to which this response applies:

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

The person completing this response must sign it. Check the appropriate box:

- ❑ I am the claim holder.
- ❑ I am the claim holder's authorized agent.

| Fill in this information to identify the case: |
|---|
| Debtor 1 _____ |
| Debtor 2 (Spouse, if filing) _____ |
| United States Bankruptcy Court for the: _____ District of _____ (State) |
| Case number _____ |

Official Form 410C13-N

# Trustee's Notice of Payments Made

12/25

**The trustee must file this notice in a chapter 13 case within 45 days after the debtor completes all payments due to the trustee. Rule 3002.1(g)(1).**

## Part 1: Mortgage Information

**Name of claim holder:** _____

**Court claim no**. (if known): _____

**Last 4 digits** of any number you use to identify the debtor's account: ____ ____ ____ ____

**Property address:**

_____
Number Street

_____

_____
City State ZIP Code

## Part 2: Statement of Completion

On _____, debtor completed all payments due the trustee under the chapter 13 plan. A copy of the trustee's disbursement ledger for all payments to the claim holder is attached or may be accessed here: _____ (web address).

## Part 3: Amount Needed to Cure Default

| | Amount |
|---|---|
| a. Allowed amount of prepetition arrearage, if any: | $ _____ |
| b. Total amount prepetition arrearage paid by the trustee as of date of notice: | $ _____ |
| c. Allowed amount of postpetition arrearage, if any: | $ _____ |
| d. Total postpetition arrearage paid by the trustee as of date of notice: | $ _____ |
| e. Total amount of arrearages paid as of date of notice | $ _____ |

Has the debtor cured all arrearages?

- ❑ Yes
- ❑ No

## Part 4: Postpetition Contractual Payment

*Check one:*

❑ Postpetition contractual payments are made by the debtor.

❑ Postpetition contractual payments are paid through the trustee.

**If the trustee has made postpetition contractual payments, complete a-c below; otherwise leave blank.**

a. Total amount of postpetition contractual payments made by the trustee as of date of notice: $ _____

b. Is the debtor current on postpetition contractual payments as of date of notice?

❑ Yes

❑ No

c. Next mortgage payment due: ____/_____
MM / YYYY

## Part 5: Postpetition Fees, Expenses, and Charges

Amount of allowed postpetition fees, expenses, and charges: $ _____

Amount of postpetition fees, expenses, and charges paid by the trustee as of date of notice: $ _____

## Part 6: A Response Is Required by Bankruptcy Rule 3002.1(g)(3)

**Within 28 days after service of this notice, the holder of the claim must file a response using Official Form 410C13-NR.**

✘ _____ Date ____/_____/_____
Signature

Trustee _____
First Name Middle Name Last Name

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

**Fill in this information to identify the case:**

Debtor 1 _____

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: _____ District of _____ (State)

Case number _____

Official Form 410C13-NR

# Response to Trustee's Notice of Payments Made

**12/25**

**The claim holder must respond to the Trustee's Notice of Payments Made within 28 days after it was served. Rule 3002.1(g)(2).**

## Part 1: Mortgage Information

**Name of claim holder:** _____

**Court claim no**. (if known): _____

**Last 4 digits** of any number you use to identify the debtor's account: ____ ____ ____ ____

**Property address:**

_____
Number Street

_____

_____
City State ZIP Code

## Part 2: Amount Needed to Cure Default

*Check all that are applicable:*

- ❑ The amount required to cure any prepetition arrearage has been paid in full.
- ❑ The amount required to cure the prepetition arrearage has not been paid in full. Amount of prepetition arrearage remaining unpaid as of the date of this notice: $ _____.
- ❑ The amount required to cure any postpetition arrearage has been paid in full.
- ❑ The amount required to cure the postpetition arrearage has not been paid in full. Amount of postpetition arrearage remaining unpaid as of the date of this notice: $ _____.

## Part 3: Postpetition Contractual Payment

- ❑ Debtor is current on all postpetition contractual payments, including all fees, charges, expenses, escrow, and costs. The claim holder attaches a payoff statement and provides the following information as of the date of this response:

  Date last payment was received on the mortgage: ____/_____/_____

Date next postpetition payment from the debtor is due: _____

Amount of the next postpetition payment that is due: $_____

Unpaid principal balance of the loan: $_____

Additional amounts due for any deferred or accrued interest: $_____

Balance of the escrow account: $_____

Balance of unapplied funds or funds held in a suspense account: $_____

❑ Debtor is not current on all postpetition contractual payments. The claim holder asserts that the debtor is obligated for the postpetition payment(s) that first became due on: ____/_____/_____.
MM / DD / YYYY

❑ Debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing. The claim holder asserts that the total amount remaining unpaid as of the date of this response is $_____.

## Part 4 Itemized Payment History

If the claim holder disagrees that the prepetition arrearage has been paid in full, states that the debtor Is not current on all postpetition payments, or states that fees, charges, expenses, escrow, and costs are due and owing, it must attach an itemized payment history—using the format of Official Form 410A, Part 5—disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses assessed to the mortgage; and
- all amounts the claim holder contends remain unpaid.

## Part 5: Sign Here

The person completing this response must sign it. Check the appropriate box:

❑ I am the claim holder.

❑ I am the claim holder's authorized agent.

**I declare under penalty of perjury that the information provided in this response is true and correct to the best of my knowledge, information, and reasonable belief.**

✘ _____ Date ____/_____/_____
Signature

_____
First Name Middle Name Last Name

_____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

United States Bankruptcy Court

_____ District of _____

In re _____, Debtor Case No. _____
Chapter 13

**Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of Mortgage Claim**

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

**Name of Claim Holder:**_____ **Court claim no**. (if known):_____

**Last 4 digits** of any number used to identify the debtor's account: ___ ____ ____ ____

**Property address:** _____

_____
City State ZIP Code

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

a. Allowed amount of the prepetition arrearage, if any: $ _____

b. Total amount of the prepetition arrearage paid, if known: $ _____

c. Allowed amount of postpetition arrearage, if any: $ _____

d. Total amount of postpetition arrearage paid, if known: $ _____

e. Total amount of arrearages paid: $ _____

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

a. Amount of postpetition fees, expenses, and charges noticed and allowed under Rule 3002.1(c): $ _____

b. Amount of postpetition fees, expenses, and charges paid: $ _____

4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition contractual obligations: $ _____

5. I ask the court for an order under Rule 3002.1(g)(4) determining whether the debtor has cured all arrearages, if any, and paid all postpetition amounts required by the plan to be made as of the date of this motion.

Signed: _____
(Trustee/Debtor)

Date: _____

United States Bankruptcy Court
_____ District of _____

In re _____, Debtor Case No. _____
Chapter 13

**Response to [Trustee's/Debtor's] Motion to Determine Final Cure and Payment of the Mortgage Claim**

_____ (claim holder) states as follows:

1. The following information relates to the mortgage claim at issue:

**Name of Claim Holder:**_____ **Court claim no**. (if known):_____

**Last 4 digits** of any number used to identify the debtor's account: ___ ____ ____ ____

**Property address:** _____

_____
City State ZIP Code

2. Arrearage Provided for by the Plan

Check one:

- ❑ As of the date of this response, Debtor has paid in full the amount required to cure any arrearage on this mortgage claim.
- ❑ As of the date of this response, Debtor has not paid in full the amount required to cure any arrearage on this mortgage claim. The total arrearage amount remaining unpaid as of the date of this response is:

  $ _____.

3. Postpetition Contractual Payments

Check all that apply:

- ❑ Debtor is current on all postpetition contractual payments, including all fees, charges, expenses, escrow, and costs. The claim holder attaches a payoff statement and provides the following information as of the date of this response:

  Date last payment was received on the mortgage: _____

  Date next postpetition payment from the debtor is due: _____

Amount of the next postpetition payment that is due: $_____

Unpaid principal balance of the loan: $_____

Additional amounts due for any deferred or accrued interest: $_____

Balance of the escrow account: $_____

Balance of unapplied funds or funds held in a suspense account: $_____

- ❑ Debtor is not current on all postpetition payments. The debtor is obligated for the postpetition payment(s) that first became due on: ____/_____/_____.
  MM / DD / YYYY

- ❑ Debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing. The total amount remaining unpaid as of the date of this response is $_____.

4. Itemized Payment History

Include if applicable:

Because the claim holder disagrees that the arrearages have been paid in full or states that the debtor Is not current on all postpetition payments or that fees, charges, expenses, escrow, and costs are due and owing, the claim holder attaches an itemized payment history—using the format of Official Form 410A, Part 5—disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses assessed to the mortgage; and
- all amounts the creditor contends remain unpaid.

_____ Date ____/_____/_____
Signature

Print _____ Title _____
Name

Company _____

If different from the notice address listed on the proof of claim to which this response applies:

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

The person completing this response must sign it. Check the appropriate box:

- ❑ I am the claim holder.
- ❑ I am the claim holder's authorized agent.

## Committee Note

Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R are new. They are adopted to implement new and revised provisions of Rule 3002.1 that prescribe procedures for determining the status of a home mortgage claim in a chapter 13 case.

Official Forms 410C13-M1 and 410C13-M1R implement Rule 3002.1(f). Form 410C13-M1 is used if either the trustee or the debtor moves to determine the status of a home mortgage at any time during a chapter 13 case prior to the trustee's Final Notice of Payments Made. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim so far in the case. If the debtor, rather than the trustee, has been making the postpetition contractual payments, the trustee should state in part 4 that she has paid $0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 21 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file a response, using Official Form 410C13-M1R, if it disputes any facts set forth in the motion. *See* Rule 3002.1(f)(2). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, or, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period, using the format of Official Form 410A, Part 5.

Official Form 410C13-N is to be used by a trustee to provide the notice required by Rule 3002.1(g)(1) to be filed

at the end of the case. This notice must be filed within 45 days after the debtor completes all payments due to the trustee, and it requires the trustee to report on the amounts the trustee paid to cure any arrearage, for postpetition mortgage obligations, and for postpetition fees, expenses, and charges. The trustee must also provide her disbursement ledger for all payments she made to the claim holder.

Within 28 days after service of the trustee's notice, the holder of the mortgage claim must file a response using Official Form 410C13-NR. *See* Rule 3002.1(g)(3). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. If the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period, using the format of Official Form 410A, Part 5. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim.

Official Forms 410C13-M2 and 410C13-M2R implement Rule 3002.1(g)(4). Form 410C13-M2 is used if either the trustee or the debtor moves at the end of the case to determine whether the debtor has cured all arrearages and paid all required postpetition amounts. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim. If the debtor, rather than the trustee, has been making the postpetition contractual payments, the trustee should state in part 4 that she has paid $0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 21 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file

a response, using Official Form 410C13-M2R, if it disputes any facts set forth in the motion. *See* Rule 3002.1(g)(4)(B). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, or, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period, using the format of Official Form 410A, Part 5.

# TAB 5B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: FORMS SUBCOMMITTEE

SUBJECT: 22-BK-A –FORM 410A

DATE: FEB. 25, 2022

We published a proposed amendment to Form 410A Proof of Claim Attachment A, Part 3 (Arrearage as of Date of the Petition) to replace the first line (which currently asks for "Principal & Interest") with two lines, one for "Principal" and one for "Interest."

The current version of Part 3 reads as follows:

Part 3: Arrearage as of Date of the Petition
Principal & Interest due: _____
Prepetition fees due: _____
Escrow deficiency for funds advanced: _____
Projected escrow shortage: _____
Less funds on hand: - _____
Total prepetition arrearage: _____

An amended Part 3 would read as follows:

Part 3: Arrearage as of Date of the Petition
Principal ~~& Interest~~ due: _____
Interest due: _____
Prepetition fees due: _____
Escrow deficiency for funds advanced: _____
Projected escrow shortage: _____
Less funds on hand: - _____
Total prepetition arrearage: _____

Advisory Committee Note

Part 3 of Form 410A is amended to provide for separate itemization of principal due and interest due. Because under § 1322(e) the amount necessary to cure a default is "determined in accordance with the underlying agreement and applicable nonbankruptcy law," it may be

necessary for a debtor who is curing arrearages under § 1325(a)(5) to know which portion of the total arrearages is principal and which is interest.

The Instructions to Official Form 410A, in the section labelled "Information required in the Part 3: Arrearage as of the Date of the Petition," first sentence would be modified to replace the word "amount" with "amounts" and the word "portion" with "portions."

We received one comment on the proposed amendment from William M.E. Powers III of PowersKirn in Moorestown, NJ (BK-2022-0002-0011). Mr. Powers suggested that the change is unnecessary because the Bankruptcy Reform Act of 1994 abrogated Rake v. Wade (508 U.S. 464 (1993). He also suggests that mortgage servicers do not routinely separate interest and principal components for delinquent installments and that this amendment will require them to upgrade their systems to accommodate the form change or make manual calculations. Such a change is also "likely to confuse many people, including pro se debtors" because the amounts may differ from those set out in the promissory note. He suggested that Form 410A already has so much information in it that it is "already difficult and confusing to individuals who do not work with it on a regular basis."

Mr. Powers makes a separate complaint about the changes made to the instructions to Form 410A in 2020 which, he maintains, "cloud its purpose and how the form should be completed" insofar as they provide that a foreclosure judgment should be included as an unpaid principal balance although it is not subject to modification under a chapter 13 plan. Mr. Powers urges rejection of the proposed amendment and reconsideration of the change to the instructions made in 2020.

In Rake v. Wade the Supreme Court held that an oversecured mortgagee was entitled to postpetition interest on arrearages paid off under a chapter 13 plan even when the mortgage itself was silent and state law would not have provided for interest to be paid. Section 1322(e) provides that the amount necessary to cure a default that is cured under a chapter 13 plan "shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law," which did in fact abrogate Rake v. Wade.

But the proposed amendment is intended to further the requirements of § 1322(e). To the extent that the underlying agreement (which governs the amount of interest that must be paid to cure a default under a chapter 13 plan) provides for interest only on principal amounts that are in arrears, but not on interest or other amounts payable under the agreement, the court must be able to determine how much of the arrearages is principal. *See In re* Silla, 2022 WL 243209 (Bankr. D. Hawaii Jan. 26, 2022). The amended form will facilitate that determination.

It is true that the change imposes an additional burden on the mortgage servicers, but it gives the debtor and the chapter 13 trustee the information necessary to determine whether the plan is treating the creditor's claim correctly.

As for Mr. Powers's lengthy discussion of the instructions relating to treatment of foreclosure judgments on Form 410A, it is not germane to the current proposed amendment.

The Subcommittee decided not to make any change in response to this comment.

**The Subcommittee recommends the amended Official Form 410A with the accompanying Advisory Committee Note and change in the Instructions to the Advisory Committee for final approval**.

# Mortgage Proof of Claim Attachment

(12/23)

**If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.**

| Part 1: Mortgage and Case Information | | Part 2: Total Debt Calculation | | Part 3: Arrearage as of Date of the Petition | | Part 4: Monthly Mortgage Payment | |
|---|---|---|---|---|---|---|---|
| Case number: | _____ | Principal balance: | _____ | Principal due: | _____ | Principal & interest: | _____ |
| Debtor 1: | _____ | Interest due: | _____ | Interest due: | _____ | Monthly escrow: | _____ |
| Debtor 2: | _____ | Fees, costs due: | _____ | Prepetition fees due: | _____ | Private mortgage insurance: | _____ |
| Last 4 digits to identify: | ___ ___ ___ ___ | Escrow deficiency for funds advanced: | _____ | Escrow deficiency for funds advanced: | _____ | Total monthly payment: | _____ |
| Creditor: | _____ | Less total funds on hand: | – _____ | Projected escrow shortage: | _____ | | |
| Servicer: | _____ | Total debt: | _____ | Less funds on hand: | – _____ | | |
| Fixed accrual/daily simple interest/other: | _____ | | | Total prepetition arrearage: | _____ | | |

**Part 5 : Loan Payment History from First Date of Default**

| | | Account Activity | | | | How Funds Were Applied/Amount Incurred | | | | | | Balance After Amount Received or Incurred | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **A.** Date | **B.** Contractual payment amount | **C.** Funds received | **D.** Amount incurred | **E.** Description | **F.** Contractual due date | **G.** Prin, int & esc past due balance | **H.** Amount to principal | **I.** Amount to interest | **J.** Amount to escrow | **K.** Amount to fees or charges | **L.** Unapplied funds | **M.** Principal balance | **N.** Accrued interest balance | **O.** Escrow balance | **P.** Fees / Charges balance | **Q.** Unapplied funds balance |
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# Mortgage Proof of Claim Attachment: Additional Page (12/23)

Case number: _____

Debtor 1: _____

**Part 5 : Loan Payment History from First Date of Default**

| | | Account Activity | | | | | How Funds Were Applied/Amount Incurred | | | | | Balance After Amount Received or Incurred | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **A.** Date | **B.** Contractual payment amount | **C.** Funds received | **D.** Amount incurred | **E.** Description | **F.** Contractual due date | **G.** Prin, int & esc past due balance | **H.** Amount to principal | **I.** Amount to interest | **J.** Amount to escrow | **K.** Amount to fees or charges | **L.** Unapplied funds | **M.** Principal balance | **N.** Accrued interest balance | **O.** Escrow balance | **P.** Fees / Charges balance | **Q.** Unapplied funds balance |
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## Committee Note

Part 3 of Form 410A is amended to provide for separate itemization of principal due and interest due. Because under § 1322(e) the amount necessary to cure a default is "determined in accordance with the underlying agreement and applicable nonbankruptcy law," it may be necessary for a debtor who is curing arrearages under § 1325(a)(5) to know which portion of the total arrearages is principal and which is interest.

Official Form 410A

# Instructions for Mortgage Proof of Claim Attachment

United States Bankruptcy Court 12/23

## Introduction

This form is used only in individual debtor cases. When required to be filed, it must be attached to *Proof of Claim* (Official Form B410) with other documentation required under the Federal Rules of Bankruptcy Procedure.

## Applicable Law and Rules

Rule 3001(c)(2)(A) of the Federal Rules of Bankruptcy Procedure requires for the bankruptcy case of an individual that any proof of claim be accompanied by a statement itemizing any interest, fees, expenses, and charges that are included in the claim.

Rule 3001(c)(2)(B) requires that a statement of the amount necessary to cure any default be filed with the claim if a security interest is claimed in the debtor's property.

If a security interest is claimed in property that is the debtor's principal residence, Rule 3001(c)(2)(C) requires this form to be filed with the proof of claim. The form implements the requirements of Rule 3001(c)(2)(A) and (B).

If an escrow account has been established in connection with the claim, Rule 3001(c)(2)(C) also requires an escrow statement to be filed with the proof of claim. The statement must be prepared as of the date of the petition and in a form consistent with applicable nonbankruptcy law.

## Directions

### Definition

This form must list all transactions on the claim from the *first date of default* to the petition date. The *first date of default* is the first date on which the borrower failed to make a payment in accordance with the terms of the note and mortgage, unless the note was subsequently brought current with no principal, interest, fees, escrow payments, or other charges immediately payable.

### Information required in Part 1: Mortgage and Case Information

Insert on the appropriate lines:

- the case number;
- the names of Debtor 1 and Debtor 2;
- the last 4 digits of the loan account number or any other number used to identify the account;
- the creditor's name;
- the servicer's name, if applicable; and
- the method used to calculate interest on the debt (i.e., fixed accrual, daily simple interest, or other method).

**Information required in Part 2: Total Debt Calculation**

Insert:

- the principal balance on the debt;
- the interest due and owing;
- any fees or costs owed under the note or mortgage and outstanding as of the date of the bankruptcy filing; and
- any *Escrow deficiency for funds advanced*—that is, the amount of any prepetition payments for taxes and insurance that the servicer or mortgagee made out of its own funds and for which it has not been reimbursed.

If the secured debt has merged into a prepetition judgment, the principal balance on the debt is the remaining amount of the judgment. Any post-judgment interest due and owing, fees and costs, and escrow deficiency for funds advanced shall be the amounts that are collectible under applicable law.

Also disclose the *Total amount of funds on hand*. This amount is the total of the following, if applicable:

- a positive escrow balance,
- unapplied funds, and
- amounts held in suspense accounts.

Total the amounts owed—subtracting total funds on hand—to determine the total debt due.

Insert this amount under *Total debt*. The amount should be the same as the claim amount that you report on line 7 of Official Form 410.

**Information required in the Part 3: Arrearage as of the Date of Petition**

Insert the amounts of the principal and interest portions of all prepetition monthly installments that remain outstanding as of the petition date. The escrow portion of prepetition monthly installment payments should not be included in this figure.

Insert the amount of fees and costs outstanding as of the petition date. This amount should equal the *Fees/Charges balance* as shown in the last entry in Part 5, Column P.

Insert any *escrow deficiency for funds advanced*. This amount should be the same as the amount of *escrow deficiency* stated in Part 2.

Insert the *Projected escrow shortage* as of the date the bankruptcy petition was filed. The *projected escrow shortage* is the amount the claimant asserts should exist in the escrow account as of the petition date, less the amount actually held. The amount actually held should equal the amount of a positive escrow account balance as shown in the last entry in Part 5, Column O.

This calculation should result in the amount necessary to cure any prepetition default on the note or mortgage that arises from the failure of the borrower to satisfy the amounts required under the Real Estate Settlement Practices Act (RESPA). The amount necessary to cure should include 1/6 of the anticipated annual charges against the escrow account or 2 months of the monthly pro rata installments due by the borrower as calculated under RESPA guidelines. The amount of the projected escrow shortage should be consistent with the escrow account statement attached to the *Proof of Claim*, as required by Rule 3001(c)(2)(C).

Insert the amount of funds on hand that are unapplied or held in a suspense account as of the petition date.

Total the amounts due listed in Part 3, subtracting the funds on hand, and insert the calculated amount in *Total prepetition arrearage*. This should be the same amount as "Amount necessary to cure any default as of the date of the petition" that you report on line 9 of Official Form 410.

**Information required in Part 4: Monthly Mortgage Payment**

Insert the principal and interest amount of the first postpetition payment.

Insert the monthly escrow portion of the monthly payment. This amount should take into account the receipt of any amounts claimed in Part 3 as escrow deficiency and projected escrow shortage. Therefore, a claimant should assume that the escrow deficiency and shortage will be paid through a plan of reorganization and provide for a credit of a like amount when calculating postpetition escrow installment payments.

Claimants should also add any monthly private mortgage insurance amount.

Insert the sum of these amounts in *Total monthly payment*.

**Information required in Part 5: Loan Payment History from the First Date of Default**

Beginning with the First Date of Default, enter:

- the date of the default in Column A;
- amount incurred in Column D;
- description of the charge in Column E;
- principal balance, escrow balance, and unapplied or suspense funds balance as of that date in Columns M, O, and Q, respectively.

For (1) all subsequently accruing installment payments; (2) any subsequent payment received; (3) any fee, charge, or amount incurred; and (4) any escrow charge satisfied since the date of first default, enter the information in date order, showing:

- the amount paid, accrued, or incurred;
- a description of the transaction;
- the contractual due date, if applicable;
- how the amount was applied or assessed; and
- the resulting principal balance, accrued interest balance, escrow balance, outstanding fees or charges balance, and the total unapplied funds held or in suspense.

If more space is needed, fill out and attach as many copies of *Mortgage Proof of Claim Attachment: Additional Page* as necessary.

# TAB 6

# TAB 6A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY, PRIVACY, AND PUBLIC ACCESS SUBCOMMITTEE

SUBJECT: 22-BK-I AND 23-BK-A– PROPOSALS TO REDACT ENTIRE SSN FROM COURT FILINGS AND CREDITOR DISTRIBUTIONS

DATE: FEB. 25, 2023

## Background

Senator Ron Wyden of Oregon sent a letter to The Chief Justice of the United States in August, 2022, in which he suggested that federal court filings should be "scrubbed of personal information before they are publicly available." Portions of this letter, suggesting that the Rules Committees reconsider a proposal to redact the entire social security number ("SSN") from court filings, have been filed as a suggestion with each of the Rules Committees. The Bankruptcy Rules suggestion has been given the label of 22-BK-I.

Michael Gieseke, an employee of a chapter 12 and chapter 13 trustee, goes further, suggesting in 23 BK-A that Rule 2002(a)(1) be amended to remove the requirement that creditors receive the full SSN of a debtor and instead receive only the last four digits of the SSN or taxpayer-identification number (with only the trustee receiving the full SSN).

Several amendments to the bankruptcy rules and forms were implemented in 2003 pursuant to the policy of the Judicial Conference to limit disclosure of a party's SSN or other identifiers. The forms of bankruptcy petition were modified to include only the last four digits of a debtor's SSN in order "to afford greater privacy to the individual debtor, whose bankruptcy case records may be available on the Internet." 2003 Committee Notes to Official Bankruptcy Form 101 and Official Bankruptcy Form 105. Rule 1005 was similarly amended to require only the last four digits of the debtor's SSN in the caption of a petition. At the same time, Rule 2002(a)(1) was amended to require that the debtor's full SSN be included in a notice of the meeting of creditors under § 341 or § 1104(b) that is actually sent to creditors, but that the filed version of Official Form 9 (now Form 309) include only the last four digits of the SSN. As explained in the Advisory Committee Note (2003) to Rule 2002:

> This will enable creditor and other parties in interest who are in possession of the debtor's social security number to verify the debtor's identity and proceed accordingly. The filed Official Form 9, however, will not include the debtor's full social security number. This will prevent the full social security number from becoming a part of the court's file in the case, and the number will not be included in the court's electronic records. Creditors who already have the debtor's social security number will be able to verify the existence of a case under the debtor's social security number, but any person searching the electronic case

> filed without the number will not be able to acquire the debtor's social security number."

Forms 9A-9I were amended accordingly to include only the last four digits of the debtor's SSN in the official copy included in the case file.

Rule 1007 was amended at the same time to include a new paragraph (f) which requires the debtor to submit a verified statement setting out the debtor's SSN, which "is not filed, nor is it included in the case file. The statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). It will also provide the information to facilitate the ability of creditors to search the court record by a search of a social security number already in the creditor's possession." Advisory Committee Note (2003) to Rule 1007.[1]

A new Rule 9037 was adopted in 2007 pursuant section 205(c)(3) of the E-Government Act of 2002, P.L. No. 107-347. That section required the Supreme Court to prescribed rules "to protect privacy and security concerns relating to electronic filing of the documents and the public availability … of documents filed electronically." The Rule precludes inclusion in any electronic or paper filing with the court (among other identifying information) an individual's SSN, and allows only the last four digits of the SSN to be included unless the court order's otherwise. The Advisory Committee Note (2007) to Rule 9037 states that "[t]he clerk is not required to review documents filed with the court for compliance with this rule. … the responsibility to redact filings rests with counsel, parties, and others who make filings with the court." All versions of Form 309 were amended to provide to the public only the last four digits of any individual debtor's taxpayer identification number.

In 2011 the Judicial Conference's Committee on Court Administration and Case Management ("CACM") suggested (11-BK-J) that Rule 2002(a)(1) be amended to eliminate the requirement that the debtor's full SSN be included on the notice of the meeting of creditors, and that Official Form B21 (the predecessor to current Form B121) be amended to include a prominent notice that the form should not be filed on the public docket. The suggestion was a response to a Federal Judicial Center study for the Privacy Subcommittee of the Standing Committee that revealed that the greatest number of public disclosures of SSNs occur in bankruptcy cases.

The Subcommittee rejected the first suggestion. While recognizing the importance of protecting debtors from improper disclosure of their SSNs, the Subcommittee was swayed by the need of creditors and other participants in the bankruptcy case for that information. The Subcommittee noted that, even with further restrictions, inadvertent disclosures of SSNs could take place. Public and private creditors rely on the SSN to ensure that they are seeking payment from the correct debtor or that a debtor from whom they are seeking payment has filed for bankruptcy protection. The IRS was also quite firm in its position that it required the full SSN for all bankruptcy debtors. The Subcommittee noted that "[t]he trend among creditors of using

[1] In 2006 Rule 1009 was amended to add a new paragraph (c) which requires that if the debtor becomes aware that the SSN that the debtor submitted under Rule 1007(f) is incorrect, the debtor must promptly submit a verified amended statement of SSN and give notice of the new statement to all entities described in Rule 1007(a)(1) or (a)(2).

other types of identifiers for debtors is likely to continue, in which case the need for SSNs will decrease. In that case, an amendment of Rule 2002(a)(1) can be reconsidered in the future."

The Subcommittee did recommend the proposed amendment to Form B21 (now Form B121), and the Advisory Committee adopted that recommendation. Form B21 was amended to include the language "An individual debtor must submit this form to the court, but must not file it on the public docket. This form will not be included in the court's electronic records." The various versions of Form 9 were also amended in 2012 to include the language "Creditors – Do not file this notice in connection with any proof of claim you submit to the court."

Gary Streeting, an attorney advisor in the clerk's office of the Bankruptcy Court for the Eastern District of Missouri, submitted a suggestion (14-BK-G) in 2014 proposing that Rule 2002(a)(1) be revised to require that only the last four digits of the debtor's SSN be included on the notice of the meeting of creditors (Official Form 309) actually sent to creditors of individual debtors. The Subcommittee on Consumer Issues at its fall 2015 meeting declined to recommend any change to the rules or forms in response to this suggestion, noting that the Advisory Committee had relatively recently examined the issue in response to the CACM suggestions, and based on some informal outreach to certain creditors who indicated that they continued to rely on the full SSN in Official Form 309. The Advisory Committee did not take up the suggestion.

Statutory Limitations

Mr. Gieseke is renewing the CACM and Streeting suggestions with respect to the notices sent to creditors under Rule 2002(a)(1). Senator Wyden's suggestion does not seem to go as far as the CACM or Streeting suggestions; he seems to focus only on filed documents rather than those sent to creditors but not filed. To a limited extent, the requirement that social security numbers be included on bankruptcy documents, either in whole or in redacted form, is set forth in the Bankruptcy Code. Section 342(c)(1) requires that:

> **(c)(1)** If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name, address, and last 4 digits of the taxpayer identification number of the debtor. If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.

Section 110 requires disclosure of the complete social security number of a bankruptcy petition preparer (BPP) on documents such as the petition and schedules prepared by the BBP:

> (c)(1)A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.
> (2)(A)Subject to subparagraph (B), for purposes of this section, the identifying number of a bankruptcy petition preparer shall be the

Social Security account number of each individual who prepared the document or assisted in its preparation.

(B)If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.

These provisions cannot, of course, be modified by rule.

Bankruptcy Rules

The source of the requirement that a redacted social security number appear on filed bankruptcy documents is in the Bankruptcy rules, primarily Rule 1005 which specifies that the caption of a petition include the redacted SSN of an individual debtor:

**Rule 1005. Caption of a Petition; Title of the Case**[2]

**(a) Caption and Title; Required Information.** A petition's caption must contain the name of the court, the title of the case, and the case number (if known). The title must include the following information about the debtor:

(1) name;
(2) employer-identification number;
(3) the last 4 digits of the social-security number or individual taxpayer-identification number;
(4) any other federal taxpayer-identification number; and
(5) all other names the debtor has used within 8 years before the petition was filed.

That caption is also included on notices in the case (many of which are embodied in Official Forms) pursuant to Rule 2002(o):

**(o) Caption.** The caption of a notice given under this Rule 2002 must conform to Rule 1005. The caption of a debtor's notice to a creditor must also include the information that § 342(c) requires.

Possible Responses to Suggestions and Request for Input

The Subcommittee sees no reason to revisit the suggestion that creditors be denied the full SSN of a debtor. Even Mr. Gieseke acknowledges that such a change "may ultimately lead to some inconvenience for creditors with a national presence." The U.S. Justice Department and Internal Revenue Service continue to assert that they need the full SSN of every debtor to link their accounts to the bankruptcy case appropriately, and the Subcommittee does not think there is any reason to take a different approach than it did in 2012 or 2015 to the prior identical suggestions.

[2] The restyled versions of the Bankruptcy Rules, on track to go into effect December 1, 2024 if all approvals are met, are used throughout this memo.

As to the suggestion from Sen. Wyden, the Subcommittee believes that there are two alternative approaches to the suggestion, and invites reactions from the Advisory Committee. First, the Advisory Committee could take the position that no action should be taken on the suggestion. First, as far as the Subcommittee knows there is no demonstrated problem of SSN fraud stemming from the disclosure of the truncated SSN in bankruptcy filings. Sen. Wyden points to the Federal Judicial Center report on protecting privacy, and noted that SSNs have been disclosed in court filings (including in bankruptcy court filings). But he provides no evidence that these disclosures have in fact led to "identity theft, stalking or other harms" about which he is concerned. Even if the redacted SSN was not supposed to be included in bankruptcy court filings, mistakes would be made (as they are today); the bankruptcy clerks and courts cannot guarantee that any rules would be followed. The various rules committees have consistently tried to limit disclosure of personally identifiable information in filed documents to the redacted SSN in an effort to protect the privacy of debtors. The Standing Committee in the past has declined to go beyond the current requirements, and although the suggestion is well-meant, it may not be addressed at a real-world problem.

The Subcommittee has been informed that the Committee on Court Administration and Case Management of the Judicial Conference of the United States (CACM) has requested the Federal Judicial Center to design and conduct studies regarding the inclusion of sensitive personal information in court filings and in social security and immigration opinions that would update the 2015 FJC privacy study and gather information about compliance with privacy rules and the extent of unredacted SSNs in court filings. The Advisory Committee might choose to defer consideration of the suggestion until that study is completed.

Moreover, § 342(c)(1) statutorily requires that the truncated SSN be included on all notices "required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court." The Subcommittee is unsure how broadly § 342(c)(1) should be interpreted. What constitutes a "notice"? If the debtor sends a form, is that a "notice"? In many cases, courts order debtors to send documents to creditors that in other jurisdictions are sent by the clerk or its designee. If only those sent by the debtor were required by § 342(c)(1) to include the truncated social security number, this would create a lack of uniformity between districts and within districts, depending on who was given the responsibility for sending the notice, and might require separate Official Forms to be used when the debtor sends them as opposed to someone else, a complication that – while not insurmountable – is undesirable.

An alternative approach would be for the Advisory Committee to respond to the suggestion by making changes to bankruptcy rules and forms eliminating the truncated SSN whenever possible on the grounds that the inclusion of the redacted SSN in bankruptcy court filings (except where required by the Bankruptcy Code) is not necessary. However, the Subcommittee is not confident that it has sufficient information to reach the conclusion that there is no benefit to including the truncated SSN in bankruptcy filings. For example, it was suggested that including the truncated SSN on the notice of discharge (Form 318 and others) would benefit the debtor by providing them a document that could be used to obtain new credit after the bankruptcy case is concluded. It is also possible that there may be some technological method for eliminating truncated SSNs from filed documents in CM/ECF. The Subcommittee wishes to

gather additional information, from the Advisory Committee and from clerks' offices, bankruptcy judges, and perhaps the Federal Trade Commission as to whether eliminating the truncated SSN would be problematic.

If the suggestion were adopted, it would require amendment of those rules that currently contemplate the filing of redacted SSNs. Rule 1005(a) could be modified as follows:

**Rule 1005. Caption of a Petition;Title of the Case**

**(b) Caption and Title; Required Information.** A petition's caption must contain the name of the court, the title ofthe case, and the case number (if known).The title must include the following information about the debtor:

(1) name;

(2) employer-identification number;

~~(3) the last 4 digits of the social-securitynumber or individual taxpayer-identification number;~~

~~(4)~~(3) any other federal taxpayer-identification number (other than a social-security number or individual taxpayer-identification number); and

~~(5)~~(4) all other names the debtor has used within 8 years before the petition was filed.

Rule 1007(b)(1)(E) could be amended as follows:

**(b) Schedules, Statements, and Other Documents.**

**(1)** ***In General.*** Except in a Chapter 9 case or when the court orders otherwise, the debtor must file— prepared as prescribed by the appropriate Official Form, if any—

***

(E) copies of all payment advices or other evidence of payment that thedebtor received from any employer within 60 days before the petition was filed— with ~~all but the last 4 digits of~~ the debtor's social-security number or individual taxpayer-identification number deleted; and

The Advisory Committee may also wish to consider amending Rule 9037(a) to preclude the filing of any document with even a redacted SSN or taxpayer identification number. If such a change were made, the Civil and Criminal Rules Advisory Committees might want to consider making a comparable change in Fed. R. Civ. P. 5.2(a), and Fed. R. Crim. P. 49.1(a) if uniformity in the federal privacy rules is desired. This could be accomplished by the following amendment:

**Rule 9037. Protecting Privacy for Filings**

**(a) Required Redaction.** Except as otherwise provided by law and u~~U~~nless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual other than the debtor known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing must delete entirely the individual's social-security number or taxpayer-identification number and may include only:

(1) ~~the last four digits of a social-security and taxpayer-identification number;~~

~~(2)~~ the year of the individual's birth;

(~~3~~2) the minor's initials; and

(4~~3~~) the last four digits of the financial-account number.

Conforming amendments would be necessary to remove the four-digit SSN or Taxpayer Identification Number from most bankruptcy forms that carry that number, other than Form 119 (declaration of non-attorney bankruptcy petition preparer) on which it is required by statute, or notice forms served and filed by the debtor which require inclusion of the last four digits of the SSN or Taxpayer Identification Number of the debtor.[3] Those include:

| Form No. | Form Name | Where |
|---|---|---|
| 101 | Petition – Individual, Voluntary | Line 3 |
| 105 | Petition – Individual, Involuntary | Line 4 |
| 119 | Declaration of Non-Attorney Bankruptcy Petition Preparer | Part 2 (full SSN) |
| 121 | Statement about Your SSNs | Line 2 (full number is 'submitted to the court,' but not docketed). Version with the redacted SSN is docketed. |
| 309A, 309B, 309E1, 309E2, 309G, 309I | 341 notices for individual debtor cases. | Caption – On form or by incorporation of Form 416A (Full Caption) |
| 312, 313, 314, 315, 3130S, and 3150S | C11 notices and orders | Caption – On form or by incorporation of Form 416A (Full Caption) |
| 318, 3180F, 3180FH, 3180RI, 3180RV1, | Discharge forms | Caption – On form or by incorporation of Form 416A (Full Caption) |

[3] Notice forms likely to be filed by the debtor include Forms 420A, Notice of Motion or Objection, and 420B, Notice of Objection to Claim. But those forms are used by others as well. For such notice forms, a new version, retaining the field for the last four digits of the debtor's SSN or Taxpayer Identification Number field could be created specifically for use by the debtor, (i.e., a new Form 420A2, Notice by Debtor of Motion or Objection, and Form 420B, Notice by Debtor of Objection to Claim).

| | | |
|---|---|---|
| 3180RV2, 3180RV3, 3180W, 3180WH | | |
| 416A | Full Caption | |
| 417A, 417B | Appellate Forms | Instructed to caption with 416A, 416B, or 416D, as appropriate. |
| 420A, 420B | Notice of motion or objection, and Notice of objection to Claim | Instructed to caption with 416A, 416B, or 416D, as appropriate. |
| 2040 | Notice of Need to File Proof of Claim Due to Recover of Assets | Caption |
| 2050 | Notice to Creditors and Other Parties in Interest | Caption |
| 2060 | Certificate of Commencement of Case | Caption |
| 2070 | Certificate of Retention of Debtor in Possession | Caption |
| 2300A | Order Confirming Chapter 12 Plan | Caption |
| 2300B | Order Confirming C13 Plan | Caption |
| 2310A | Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 12 Plan | Caption |
| 2310B | Order Fixing Time to Object to Proposed Modification of Chapter 13 plan. | Caption |
| 2530 | Order for Relief in an Involuntary Case | Caption |
| 2700 | Notice of Filing of Final Report of Trustee … | Caption |
| 2710 | Final Decree | Caption |

Again, these amendments would not guarantee that no one would file a document with a SSN, redacted or not, but if the forms did not include a space for including the SSN, it is less likely that those employing those forms will include them. To the extent that the truncated SSN is not necessary on these forms (the issue on which the Subcommittee needs more information), the Advisory Committee would be responsive to Sen. Wyden's concerns without harm to the bankruptcy process because creditors, the U.S. trustee or bankruptcy administrator, and case trustee would continue to receive the full SSN of the debtor as in the past but even the truncated SSN would not appear in any filed document (except when required by § 342(c) or § 110 of the Bankruptcy Code).

Related Rules and Forms Amendments

Three related comments. First, the continual amendments to the versions of Form 309 have resulted in changes that have reduced the emphasis previously given to the direction that creditors should not file the Form with a proof of claim or any other filing. Formerly, that statement was in bold letters alone at the top of the form. Now it is in bold letters but much smaller font, buried at the end of the lengthy instructions. Because the versions of Form 309 already run to 1-1/2 pages, it might be appropriate to make that statement more prominent as it was in 2012.

Second, current Rules 1007(f) and 1009(c) cover only SSNs. But Form B121 includes taxpayer identification numbers as well. The Subcommittee believes that this was an oversight, and that Rule 1007(f) and 1009(c) should read as follows:

**Rule 1007. Lists, Schedules, Statements, and Other Documents;Time to File**

***

**(f) Social-Security Number or Taxpayer-Identification Number.** In a voluntary case, an individual debtor must submit with the petition a verified statement that gives the debtor's social-security number or taxpayer-identification number or states that the debtor does not have one (Form 121). In an involuntary case, the debtor must submit the statement within 14 days after the order for relief is entered.

**Rule 1009. Amending a Voluntary Petition, List, Schedule, or Statement**

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**(c) Amending a Social-Security Number or Taxpayer-Identification Number.** If a debtor learns that a social-security number or taxpayer-identification number shown on the statement submitted under Rule 1007(f) is incorrect, the debtor must:

(1) promptly submit an amended statement with the correct number (Form 121); and

(2) give notice of the amendment to all entities required to be listed under Rule 1007(a)(1) or (a)(2).

Third, debtors frequently get their SSNs wrong on the initial B121 and have to provide an amended statement of social security number. But Rule 1009(c) provides that the debtor provide notice of the amendment only "to all of the entities required to be included on the list filed under Rule 1007(a)(1) or (a)(2)." That list does not include the case trustee, and the trustee really needs that information. The Rule also does not specify how any party receiving that notice can actually obtain the correct SSN from the clerk's office. Rule 1009(c) could be amended to read as follows:

(c) ~~Incorrect~~ Amending a **Social-Security Number.**

(1) ***Amended Statement***. If a debtor learns that a social-security number shown on the statement submitted under Rule 1007(f) is incorrect, the debtor must:

(A) promptly submit an amended statement with the correct number (Form 121); and

(~~2~~)B) give notice of the amendment to ~~all entities required to be listed under Rule 1007(a)(1) or (a)(2).~~the trustee, all creditors, and all indenture trustees.

(2) ***Disclosing Corrected Social-Security Number***. The clerk will promptly provide the amended social-security number to the trustee, and to any creditor or indenture trustee who requests it.

## Conclusion

The Subcommittee will continue to consider the suggestion and seeks advice from the Advisory Committee on:

1) whether the members of the Advisory Committee believe that inclusion of the truncated SSN on filed bankruptcy documents is necessary or desirable; and

2) what approaches the Subcommittee might pursue to elicit concerns that elimination of the truncated SSN might create.

# TAB 7

# TAB 7A

MEMORANDUM

TO: ADVISORY COMMITTEE FOR BANKRUPTCY RULES

FROM: PRIVACY, PUBLIC ACCESS, AND APPEALS SUBCOMMITTEE

SUBJECT: 21-BK-O – 8023.1 SUBSTITUTION OF PARTIES

DATE: FEB. 22, 2023

We published a proposed new rule on substitution of parties to apply in bankruptcy cases much like FRAP 43 applies in appellate cases to read as follows:

**Rule 8023.1 Substitution of Parties**

(a) **Death of a Party**.

(1) *After a Notice of Appeal Is Filed*. If a party dies after a notice of appeal has been filed or while a proceeding is pending on appeal in the district court or BAP, the decedent's personal representative may be substituted as a party on motion filed with that court's clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 8011. If the decedent has no representative, any party may suggest the death on the record, and the appellate court may then direct appropriate proceedings.

(2) *Before a Notice of Appeal Is Filed—Potential Appellant*. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these rules. After the notice of appeal is filed, substitution must be in accordance with ~~Rule 8023.1(a)~~(1).

(3) *Before a Notice of Appeal Is Filed—Potential Appellee*. If a party against whom an appeal may be taken dies after entry of a judgment or order in the bankruptcy court~~,~~ but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution must be in accordance with ~~Rule 8023.1(a)~~(1).

(b) **Substitution for a Reason Other Than Death**. If a party needs to be substituted for any reason other than death, the procedure prescribed in ~~Rule 8023.1~~(a) applies.

(c) **Public Officer: Identification; Substitution**.

(1) *Identification of Party*. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the appellate court may require the public officer's name to be added.

(2) *Automatic Substitution of Officeholder*. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. Subject to ~~the provisions of~~ Rule 2012, the public officer's successor is automatically substituted as a party. Proceedings ~~following~~ after the substitution are to be in the

name of the substituted party, but any misnomer that does not affect the substantial rights of the parties may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.

Advisory Committee Note

Rule 8023.1 is derived from Fed. R. App. P. 43 and governs substitution of parties upon death or for any other reason in appeals to the district court or bankruptcy appellate panel from a judgment, order or decree of a bankruptcy court.

We received no comments on the proposed new rule. The marked changes reflect comments of the style consultants.

**The Subcommittee recommends that the Advisory Committee give final approval to the rule and submit it to the Standing Committee for final approval.**

# TAB 8

# TAB 8A1

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON RESTYLING

SUBJECT: RESTYLING OF FEDERAL RULES OF BANKRUPTCY PROCEDURE – PARTS VII – IX

DATE: FEB. 28, 2023

Parts VII-IX of the Restyled Federal Rules of Bankruptcy Procedure (the "Restyled Rules") were published for comments as USC-RULES-BK-2022-0002 in August 2022. We received four sets of comments.

The first comment came from A. Bradley Goodman (BK-2022-002-0003). He stated that he "agree[d] with the need for the proposed amendments because they seem narrowly tailored to further the efficient administration of justice." He then also made a separate suggestion regarding electronic signatures on petitions and schedules, which was discussed by the Technology and Privacy Subcommittee. That Subcommittee decided not to pursue the suggestion.

A second comment, filed by Tim Truman (BK-2022-0002-0004) was withdrawn because it was not germane to the restyling project and it was logged as 22-BK-K as a new suggestion.

A third comment was filed by Aderant (BK-2022-002-0008). The fourth set of comments came from the National Bankruptcy Conference (NBC), reflecting a review of the restyled rules by its Court System and Bankruptcy Administration Committee (BK-2022-0002-0007).

All these comments were carefully considered by the Associate Reporter and the style consultants, and recommendations on changes to the published rules were presented to the Restyling Subcommittee. The reactions of the Subcommittee were then reviewed again with the style consultants, and the drafts being presented to the Advisory Committee reflect these discussions.

Each rule describes the changes made since publication and all comments received that were specific to that rule. The amended restyled rules are attached.

The NBC also made some general comments not specific to individual rules which are addressed below:

1. ***No Substantive Change***. The NBC again suggested (as it did on all previous sets of

restyled rules) that the Restyled Rules include a "specific rule of interpretation" or be accompanied by "a declarative statement in the Supreme Court order adopting the new rules" to make clear that no substantive change was intended in the restyling process and the restyled rules must be interpreted consistently with the current rules.

***Response:*** The Bankruptcy Rules are the last of the five sets of federal rules to be restyled. In the prior restyling projects, the applicable Advisory Committee has emphasized that the restyling is not intended to make any substantive change in two ways. One was the Advisory Committee Note to the restyled rules. For example, in the Note to Rule 1 of the Federal Rules of Civil Procedure, the Advisory Committee stated "The style changes to the rules are intended to make no changes in substantive meaning." In our Committee Note we expressly state the following:

> "The Committee made special efforts to reject any purported style improvement that might result in a substantive change in the application of a rule."

(This language was identical to that used in the committee note for the restyled Federal Rules of Evidence.) The Advisory Committee has expanded this note to insert a new sentence before the current one that reads exactly like that used for the civil procedure rules: "The style changes to the rules are intended to make no changes in substantive meaning."

Second, every restyled rule has its own Committee Note stating that "the language of rule ___ has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only."

In connection with the restyling of the Federal Rules of Civil Procedure, Professor Ed Hartnett argued that these expressions of intent in the committee notes were not binding on courts, and discussed whether the restyled rules should have included "a rule of construction in the text of the rules themselves." Edward A. Hartnett, "*Against (Mere) Restyling*, 82 NOTRE DAME L. REV. 155 (2006). He said that the Advisory Committee on Civil Rules could have included a provision in Rule 1 that stated that "[t]hese rules must be construed to retain the same meaning after the amendments adopted on December 1, 2007 [the date of the restyling amendments], as they did before those amendments." *Id.* at 168. However, he noted that the Advisory Committee rejected including such a rule of construction because it would "make it impossible for anyone to rely on the text of any of the restyled rules. In every instance in which someone relied on the text of the rule should be ignored in favor of its prior meaning." *Id.* Of course, if courts rely on the committee notes, the same problem is created; the plain meaning of the restyled rules are always subject to challenge based on the meaning of the prior version of the rules. As Professor Hartnett said,

> "The more the courts rely on the purpose of maintaining prior meaning, the less the restyled rules will achieve their goal of making the rules clear and easily understood. The flip side is that the more that courts rely on the plain language of the restyled rule, the more the restyled rules will achieve their goal of making the rules clear and easily understood. Ironically, then, the best hope for the successful implementation of clear, easily understood restyled rules is if lawyers and judges ignore the Advisory Committee Note repeated after each restyled rule."

*Id.* at 169-70.

> The Advisory Committee has chosen to follow the pattern that was developed in the prior restyled rules and include committee notes after each rule, but not include a rule of construction or any other method of providing that the rules do not change the substance of the prior version of the rules.

2. ***Capitalization***. The NBC again objected to the choice of the style consultants to capitalize the words "title," "chapter," and "subchapter." This choice is inconsistent with how those terms are used in the Code (without capitalization).

> ***Response***: The position of the Advisory Committee has been that the choices of the style consultants should prevail on matters of pure style. This is a matter of pure style. Therefore, no change was made to the capitalization choices of the style consultants.

3. ***Bullet Points***. The NBC again objected to the use of bullet points in the rules rather than lettered designations. Use of bullet points makes it "difficult and cumbersome for courts and parties to try to correctly cite any given bullet point." The NBC also notes that there are some instances where "very short lists are now given bullets . . . which adds visual clutter more than its improves anything."

> ***Response***: Bullet points have been used in other restylings. See, e.g. Civil Rule 8(c)(1). The Advisory Committee is comfortable that bullet points are not used in a way that would be likely to require citation to individual bullet points (as opposed to the section in which they appear). They are usually used to list the recipients of notice or service. The style consultants feel strongly that their use is consistent with modern trends in making language comprehensible, and as a stylistic matter it rests with them. No change was made in response to this comment.

4. ***Reference to Forms by Number***. The NBC again notes that certain rules refer to a specific form by its number. They express concern that a forms change will make those

references "invalid." They also note that the Restyled Rules are inconsistent regarding whether to refer to an Official Form or just a Form.

> ***Response:*** The Advisory Committee has considered this issue before and has made a very intentional decision to include form numbers when the rules require use of an official form to make the rules easier to use. The Advisory Committee is aware that any change to form number will require conforming changes to any rule that refers to that form number. Modifications have been made to the Restyled Rules to use the term "Official Forms" when referring to the forms as a whole, and "Form [number]" when referring to a specific form.

5. ***Use of Affidavit***. The NBC notes that in some of the restyled rules there are references to "affidavit." Under 28 U.S.C. § 1746, declarations under penalty of perjury are acceptable. Therefore the NBC recommends adding "or qualifying declaration" after each instance of "affidavit" throughout the Restyled Rules.

> ***Response:*** Making such a change would be substantive, rather than stylistic, and should be the subject of a separate suggestion rather than a comment on the Restyled Rules. No change was made in response to this suggestion.

The Subcommittee asks the Advisory Committee to give final approval to Parts VII – IX of the restyled Federal Rules of Bankruptcy Procedure and submit them to the Standing Committee for final approval.

# Bankruptcy Rules Restyling

## 7000 Series

| ORIGINAL | REVISION |
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| PART VII—ADVERSARY PROCEEDINGS | **PART VII. ADVERSARY PROCEEDINGS** |
| **Rule 7001. Scope of Rules of Part VII** | **Rule 7001. Types of Adversary Proceedings** |
| An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:<br><br>(1) a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002;<br><br>(2) a proceeding to determine the validity, priority, or extent of a lien or other interest in property, but not a proceeding under Rule 3012 or Rule 4003(d);<br><br>(3) a proceeding to obtain approval under § 363(h) for the sale of both the interest of the estate and of a co-owner in property;<br><br>(4) a proceeding to object to or revoke a discharge, other than an objection to discharge under §§ 727(a)(8)[1], (a)(9), or 1328(f);<br><br>(5) a proceeding to revoke an order of confirmation of a chapter 11, chapter 12, or chapter 13 plan;<br><br>(6) a proceeding to determine the dischargeability of a debt;<br><br>(7) a proceeding to obtain an injunction or other equitable relief, except when a chapter 9, chapter 11, chapter 12, or chapter 13 plan provides for the relief; | An adversary proceeding is governed by the rules in this Part VII. The following are adversary proceedings:<br><br>(a) a proceeding to recover money or property—except a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b), § 725, Rule 2017, or Rule 6002;<br><br>(b) a proceeding to determine the validity, priority, or extent of a lien or other interest in property—except a proceeding under Rule 3012 or Rule 4003(d);<br><br>(c) a proceeding to obtain authority under § 363(h) to sell both the estate's interest in property and that of a co-owner;<br><br>(d) a proceeding to revoke or object to a discharge—except an objection under § 727(a)(8) or (a)(9), or § 1328(f);<br><br>(e) a proceeding to revoke an order confirming a plan in a Chapter 11, 12, or 13 case;<br><br>(f) a proceeding to determine whether a debt is dischargeable;<br><br>(g) a proceeding to obtain an injunction or other equitable relief—except when the relief is provided in a Chapter 9, 11, 12, or 13 plan;<br><br>(h) a proceeding to subordinate an allowed claim or interest—except when subordination is provided in a Chapter 9, 11, 12, or 13 plan; |

[1] So in original. Probably should be only one section symbol.

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| (8) a proceeding to subordinate any allowed claim or interest, except when a chapter 9, chapter 11, chapter 12, or chapter 13 plan provides for subordination;<br><br>(9) a proceeding to obtain a declaratory judgment relating to any of the foregoing; or<br><br>(10) a proceeding to determine a claim or cause of action removed under 28 U.S.C. § 1452. | (i) a proceeding to obtain a declaratory judgment ~~relating~~ related to any proceeding described in (a)–(h); and<br><br>(j) a proceeding to determine a claim or cause of action removed under 28 U.S.C. § 1452. |

**Committee Note**

The language of Rule 7001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In 7001(i) the words "relating to" have been changed to "related to" at the request of the style consultants.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC noted that the designations for subparts of this rule were changed from numbers to letters, which "may make this rule consistent with the result of the restyled rules, but it will also make it more difficult for practicing judges and lawyers to use existing case law and other authorities with citations using the current nomenclature." They suggest not making the change.

> ***Response***: As the NBC acknowledges, "the gains from the redesignation are only stylistic." On matters of style we defer to the style consultants. No change was made in response to this suggestion.

The NBC also expressed concern with the words "any proceeding" in Rule 7001(i), saying that it is confusing and suggests that a separate proceeding must exist (separate from the declaratory-judgment action). They suggest changing the language to "any subject" or "any matter."

> ***Response***: Each of paragraphs (a)-(h) begins with the words "a proceeding."

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| **Rule 7002. References to Federal Rules of Civil Procedure** | **Rule 7002. References to the Federal Rules of Civil Procedure** |
| Whenever a Federal Rule of Civil Procedure applicable to adversary proceedings makes reference to another Federal Rule of Civil Procedure, the reference shall be read as a reference to the Federal Rule of Civil Procedure as modified in this Part VII. | When a Federal Rule of Civil Procedure applicable to an adversary proceeding refers to another civil rule, that reference ~~must be read as a reference~~is to the civil rule as modified by this Part VII. |

**Committee Note**

The language of Rule 7002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The words "must be read as a reference" are changed to the word "is" at the request of the style consultants.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC objected to the use of the words "civil rule" in this Rule, saying that that phrase "does not have accepted meaning" and could be construed to mean a rule under civil law rather than common law.

> ***Response***: The opening phrase of Rule 7002 is to the "Federal Rules of Civil Procedure" and the two uses of "civil rule" are clearly referring back to the Federal Rules of Civil Procedure. There is no confusion here. No change was made in response to this comment.

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| **Rule 7003. Commencement of Adversary Proceeding** | **Rule 7003. Commencing an Adversary Proceeding** |
| Rule 3 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 3 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

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| **Rule 7004. Process; Service of Summons, Complaint** | **Rule 7004. Process; Issuing and Serving a Summons and Complaint** |
| (a) SUMMONS; SERVICE; PROOF OF SERVICE.<br><br>(1) Except as provided in Rule 7004(a)(2), Rule 4(a), (b), (c)(1),(d)(5), (e)–(j), (l), and (m) F.R.Civ.P. applies in adversary proceedings. Personal service under Rule 4(e)–(j) F.R.Civ.P. may be made by any person at least 18 years of age who is not a party, and the summons may be delivered by the clerk to any such person.<br><br>(2) The clerk may sign, seal, and issue a summons electronically by putting an "s/" before the clerk's name and including the court's seal on the summons. | **(a) Issuing, Delivering, and Personally Serving a Summons and Complaint.**<br><br>(1) ***In General.*** Except as provided in (~~3~~2), Fed. R. Civ. P. 4(a), (b), (c)(1), (d)(5), (e)–(j), (l), and (m) applies in an adversary proceeding.<br><br>(2) ***Issuing and Delivering a Summons.*** The clerk may:<br><br>(A) sign, seal, and issue the summons electronically by placing an "s/" before the clerk's name and adding the court's seal to the summons; and<br><br>(B) deliver the summons ~~for service~~to the person who will serve it.<br><br>(3) ***Personally Serving a Summons and Complaint.*** Any person who is at least 18 years old and not a party may personally serve a summons and complaint under Fed. R. Civ. P. 4(e)–(j). |
| (b) SERVICE BY FIRST CLASS MAIL. Except as provided in subdivision (h), in addition to the methods of service authorized by Rule 4(e)–(j) F.R.Civ.P., service may be made within the United States by first class mail postage prepaid as follows:<br><br>(1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession. | **(b) Service by Mail as an Alternative.** Except as provided in subdivision (h), in addition to the methods of service authorized by Fed. R. Civ. P. 4(e)–(j), a copy of a summons and complaint may be served by first-class mail, postage prepaid, within the United States on:<br><br>(1) an individual except an infant or an incompetent person—by mailing the copy to the individual's dwelling or usual place of abode or where the individual regularly conducts a business or profession; |

| ORIGINAL | REVISION |
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| (2) Upon an infant or an incompetent person, by mailing a copy of the summons and complaint to the person upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state. The summons and complaint in that case shall be addressed to the person required to be served at that person's dwelling house or usual place of abode or at the place where the person regularly conducts a business or profession.<br><br>(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.<br><br>(4) Upon the United States, by mailing a copy of the summons and complaint addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency. The | (2) an infant or incompetent person—by mailing the copy:<br><br>(A) to a person who, under the law of the state where service is made, is authorized to receive service on behalf of the infant or incompetent person when an action is brought in that state's courts of general jurisdiction; and<br><br>(B) at that person's dwelling or usual place of abode or where the person regularly conducts a business or profession;<br><br>(3) a domestic or foreign corporation, or a partnership or other unincorporated association—by mailing the copy:<br><br>(A) to an officer, a managing or general agent, or an agent authorized by appointment or by law to receive service; and<br><br>(B) also to the defendant if a statute authorizes an agent to receive service and the statute so requires;<br><br>(4) the United States, with these requirements:<br><br>(A) a copy of the summons and complaint must be mailed to:<br><br>(i) the civil-process clerk in the United States attorney's office in the district where the ~~case~~ action is filed;<br><br>(ii) the Attorney General of the United States in Washington, D.C.; and<br><br>(iii) in an action attacking the validity of an order of a United States officer or agency that is not a party, also to that officer or agency; and |

| ORIGINAL | REVISION |
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| court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States.<br><br>(5) Upon any officer or agency of the United States, by mailing a copy of the summons and complaint to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States. If the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee, service may be made as prescribed in paragraph (10) of this subdivision of this rule. | (B) if the plaintiff has mailed a copy of the summons and complaint to a person specified in either (A)(i) or (ii), the court must allow a reasonable time to serve the others that must be served under (A);<br><br>(5) an officer or agency of the United States, with these requirements:<br><br>(A) the summons and complaint must be mailed not only to the officer or the agency—as prescribed in (3) if the agency is a corporation—but also to the United States, as prescribed in (4);[2]<br><br>(B) if the plaintiff has mailed a copy of the summons and complaint to a person specified in either (4)(A)(i) or (ii), the court must allow a reasonable time to serve the others that must be served under (A); and<br><br>(C) if a United States trustee is the trustee in the case, service may be made on the United States trustee solely as trustee, as prescribed in (10);<br><br>(6) a state or municipal corporation or other governmental organization subject to suit, with these requirements:<br><br>(A) the summons and complaint must be mailed to the person or office that, under the law of the state where service is made, is authorized to receive service in a case filed against that defendant in that state's courts of general jurisdiction; and |

| ORIGINAL | REVISION |
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| (6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof.<br><br>(7) Upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if a copy of the summons and complaint is mailed to the entity upon whom service is prescribed to be served by any statute of the United States or by the law of the state in which service is made when an action is brought against such a defendant in the court of general jurisdiction of that state.<br><br>(8) Upon any defendant, it is also sufficient if a copy of the summons and complaint is mailed to an agent of such defendant authorized by appointment or by law to receive service of process, at the agent's dwelling house or usual place of abode or at the place where the agent regularly carries on a business or profession and, if the authorization so requires, by mailing also a copy of the summons and complaint to the defendant as provided in this subdivision.<br><br>(9) Upon the debtor, after a petition has been filed by or served upon the debtor and until the case is dismissed or closed, by mailing a copy of the summons and complaint to the debtor at the address shown in the | (B) if there is no such authorized person or office, the summons and complaint ~~may~~ must be mailed to the defendant's chief executive officer;<br><br>(7) a defendant of any class referred to in (1) and (3)—for whom it also suffices to mail the summons and complaint to the entity on which service must be made under a federal statute or under the law of the state where service is made when an action is brought against that defendant in that state's courts of general jurisdiction;<br><br>(8) any defendant—for whom it also suffices to mail the summons and complaint to the defendant's agent under these conditions:<br><br>(A) the agent is authorized by appointment or by law to accept service ~~of process~~;<br><br>(B) the mail is addressed to the agent's dwelling or usual place of abode or where the agent regularly conducts a business or profession; and<br><br>(C) if the agent's authorization so requires, a copy is also mailed to the defendant as provided in this subdivision (b);<br><br>(9) the debtor, ~~with the qualification that~~ after a petition has been filed by or served upon a debtor, and until the case is dismissed or closed—by ~~addressing the mail to the debtor at the~~mailing the copy to the address shown on the debtor's petition or the address the debtor specifies in a filed writing;<br><br>(10) a United States trustee who is the trustee in the case and service is made upon the United States trustee solely as |

| ORIGINAL | REVISION |
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| petition or to such other address as the debtor may designate in a filed writing.<br><br>(10) Upon the United States trustee, when the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee, by mailing a copy of the summons and complaint to an office of the United States trustee or another place designated by the United States trustee in the district where the case under the Code is pending. | trustee—by addressing the mail to the United States trustee's office or other place that the United States trustee designates within the district. |
| (c) SERVICE BY PUBLICATION. If a party to an adversary proceeding to determine or protect rights in property in the custody of the court cannot be served as provided in Rule 4(e)–(j) F.R.Civ.P. or subdivision (b) of this rule, the court may order the summons and complaint to be served by mailing copies thereof by first class mail, postage prepaid, to the party's last known address, and by at least one publication in such manner and form as the court may direct. | **(c) Service by Publication in an Adversary Proceeding Involving Property Rights.** If a party to an adversary proceeding to determine or protect rights in property in the court's custody cannot be served under (b) or Fed. R. Civ. P. 4(e)–(j), the court may order the summons and complaint to be served by:<br><br>(1) first-class mail, postage prepaid, to the party's last known address; and<br><br>(2) at least one publication in a form and manner as the court orders. |
| (d) NATIONWIDE SERVICE OF PROCESS. The summons and complaint and all other process except a subpoena may be served anywhere in the United States. | **(d) Nationwide Service of Process.** A summons and complaint (and all other process, except a subpoena) may be served anywhere within the United States. |
| (e) SUMMONS: TIME LIMIT FOR SERVICE WITHIN THE UNITED STATES. Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F.R.Civ.P. shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons | **(e) Time to Serve a Summons and Complaint.**<br><br>(1) ***In General.*** A summons and complaint served by delivery under Fed. R. Civ. P. 4(e), (g), (h)(1), (i), or (j)(2) ~~by delivery~~must be served within 7 days after the summons is issued. If served by mail, they must be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, a new summons must be issued. |

| ORIGINAL | REVISION |
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| will be issued for service. This subdivision does not apply to service in a foreign country. | (2) ***Exception.*** This ~~paragraph~~ subdivision (e) does not apply to service in a foreign country. |
| (f) PERSONAL JURISDICTION. If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service in accordance with this rule or the subdivisions of Rule 4 F.R.Civ.P. made applicable by these rules is effective to establish personal jurisdiction over the person of any defendant with respect to a case under the Code or a civil proceeding arising under the Code, or arising in or related to a case under the Code. | **(f) Establishing Personal Jurisdiction.** If ~~the exercise of~~exercising jurisdiction is consistent with the United States Constitution and laws ~~of the United States~~, serving a summons or filing a waiver of service under this Rule 7004 or the applicable provisions of Fed. R. Civ. P. 4 establishes personal jurisdiction over ~~the person of~~ a defendant:<br>(1) in a bankruptcy case; or<br>(2) in a civil proceeding arising ~~in or related to a bankruptcy case~~under the Code, or arising in or related to a case under the Code~~; or in a civil proceeding under the Code~~. |
| (g) SERVICE ON DEBTOR'S ATTORNEY. If the debtor is represented by an attorney, whenever service is made upon the debtor under this Rule, service shall also be made upon the debtor's attorney by any means authorized under Rule 5(b) F.R.Civ.P. | **(g) Serving a Debtor's Attorney.** If, when served, a debtor is represented by an attorney, the attorney must also be served by any means authorized by Fed. R. Civ. P. 5(b). |
| (h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION. Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless— | **(h) Service of Process on an Insured Depository Institution.** Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—<br>(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail; |

| ORIGINAL | REVISION |
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| (1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;<br><br>(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or<br><br>(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service. | (2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or<br><br>(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service. |
| (i) SERVICE OF PROCESS BY TITLE. This subdivision (i) applies to service on a domestic or foreign corporation or partnership or other unincorporated association under Rule 7004(b)(3) or on an officer of an insured depository institution under Rule 7004(h). The defendant's officer or agent need not be correctly named in the address – or even be named – if the envelope is addressed to the defendant's proper address and directed to the attention of the officer's or agent's position or title. | **(i) Service of Process by Title.** This subdivision (i) applies to service on a domestic or foreign corporation or partnership or other unincorporated association under Rule 7004(b)(3), or on an officer of an insured depository institution under Rule 7004(h). The defendant's officer or agent need not be correctly named in the address~~ – ~~or even be named~~ – ~~if the envelope is addressed to the defendant's proper address and directed to the attention of the officer's or agent's position or title. |

**Committee Note**

The language of Rule 7004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. The ~~first clause~~beginning of Rule 7004(b) (through the words "in addition") and all of Rule 7004(h) have not been restyled because they were enacted by Congress, P.L. 103-394, Sec. 114, 108 Stat. ~~361, Sec. 4118~~4106, 4118 (1994). The Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075, provides no authority to modify statutory language.

**Changes Made After Publication and Comment**

• In 7004(a)(1), the first reference to "(3)" has been changed to "(2)."

• In 7004(a)(2)(B) the words "for service" have been changed to "to the person who will serve it" at the request of the style consultants.

• In 7004(b)(4)(A)(i) the word "case" was changed to "action."

• In 7004(b)(5)(A), a footnote call number was removed.

• In 7004(b)(6)(B), the word "may" was replaced with "must."

• In 7004(b)(9), the words "with the qualification that" were eliminated, and the words "addressing the mail to the debtor at the" were replaced with "mailing the copy to the".

• In 7004(e)(1), the words "by delivery" were moved from after "(j)(2)" to after "served" at the request of the style consultants.

• In 7004(e)(2), the word "paragraph" was replaced with "subdivision (e)."

• In 7004(f) the word "exercising" replaced "the exercise of", and "United States Constitution and laws" replaced "Constitution and laws of the United States". Those changes were made at the request of the style consultants. In addition, the words "the person of" were deleted.

• Subsections (A), (B), and (C) were redesignated as (1), (2), and (3) and were rewritten in accordance with the suggestion made by the National Bankruptcy Conference described below.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In 7004(a), the NBC objected to the order in which (2) and (3) appear, noting that they reverse the order in the current rule. In particular, they think keeping the current order "makes it clear the reference to delivery of the summons is to the person who will serve the summons" and the restyled version "makes it unclear to whom the clerk is 'to deliver' the summons."

> ***Response***: The order of the subparts is a matter of style. Rule 7004(a)(2)(B) has been modified to specify to whom the summons is to be delivered.

The NBC expressed concern that the restyled version of Rule 7004(b) effected a substantive change by changing that language from "service may be made" to "a summons and complaint may be served." It thinks the restyled rule does not clearly state that mailing a copy of the summons and complaint is an alternative form of service.

> ***Response***: The phrase "may be served" is used in Fed. R. Civ. P. 4, to which this section refers. The title of the section, as the NBC noted, is "Service by Mail as an Alternative." The text of the section says "in addition to the methods of service authorized by [FRCP 4], a copy of a summons and complaint may be served by first-class mail." It is quite clear that mailing a copy of the summons and complaint is an alternative form of service. No change was made in response to this comment.

The NBC objects to the use of the em dash throughout Rule 7004(b), finding it "jarring and awkward".

> ***Response***: This is a matter of style, and we defer to the style consultants on matters of style.

In Rule 7004(b)(2)(B), the NBC finds the reference to "that person" to be ambiguous, potentially referring to the infant or incompetent person rather than the intended person referenced in (b)(2)(A).

> ***Response***: Rule 7004(b)(2)(B) is describing where the copy is to be mailed, and begins with the words "at that person's." The immediately preceding reference to a "person" is in (b)(2)(A). To interpret (b)(2)(B) as referring to the infant or incompetent person, one would have to assume that the section read "an infant or incompetent person – by mailing the copy … at that person's dwelling or usual place of abode …." That does not make grammatical sense. The person must be the one described in (b)(2)(A). No change was made in response to this suggestion.

In Rule 7004(b)(4)(A)(i), the NBC suggests that the words "where the case is filed" are unclear and could be read to refer to the underlying bankruptcy case rather than the adversary proceeding. They suggest using the word "action" (as in the original rule) or "proceeding" instead.

> ***Response***: Suggestion accepted.

In Rule 7004(b)(5)(A), the NBC noted that there was a footnote call number with no text.

> ***Response***: The footnote call number was removed.

In Rule 7004(b)(6)(B), the NBC suggests that if state law does not designate to whom service is to be made, service must be made on the chief executive officer. Therefore, the word "may" should be changed to "must."

> ***Response***: Suggestion accepted.

The NBC noted that the current language of (b)(9) never requires mailing the copy, only addressing it, and suggested rewriting (b)(9) to read as follows: "(9) the debtor, after a petition has been filed or served upon a debtor and until the case is dismissed or closed, by mailing the copy to the address shown on the debtor's petition or the address the debtor specifies in a filed writing;"

***Response:*** Suggestion accepted.

In (e)(1), the NBC believes that the word "they" is ambiguous and should be replaced with "the documents" or "the summons and complaint".

***Response***: There is nothing other than the summons and complaint that could be referred to by the word "they." No change was made in response to this comment.

In (f) the NBC asks why the paragraphs are labeled with letters rather than with numbers like the rest of Rule 7004.

***Response***: Suggestion accepted.

In (f)(A) the concept of "a defendant in a bankruptcy case" makes no sense and the NBC suggests changing the words "in a" with "regarding" (although that is only marginally better).

***Response***: Suggestion accepted.

The NBC points out that (f)(A)-(C) is supposed to track the language of 28 U.S.C. § 1334(a)-(b) which give district courts jurisdiction over "all cases under title 11" and "all civil proceedings arising under title 11, or arising in or related to cases under title 11." They therefore suggest that (f)(A)-(C) be replaced with language that reads as follows: (1) regarding a case under the Code; (2) in a civil proceeding arising under the Code; or (3) in a civil proceeding arising in or related to a case under the Code."

***Response***: Suggestion accepted with modifications to track statutory language more closely.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7005. Service and Filing of Pleadings and Other Papers** | **Rule 7005. Serving and Filing Pleadings and Other Papers** |
| Rule 5 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 5 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7007. Pleadings Allowed** | **Rule 7007. Pleadings Allowed** |
| Rule 7 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 7 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7007.1. Corporate Ownership Statement** | **Rule 7007.1. Corporate Ownership Statement** |
| (a) REQUIRED DISCLOSURE. Any nongovernmental corporation that is a party to an adversary proceeding, other than the debtor, shall file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene. | **(a) Required Disclosure.** Any nongovernmental corporation—other than the debtor—that is a party to an adversary proceeding, other than the debtor, must file a statement that identifiesidentifying any parent corporation and any publicly held corporation that owns 10% or more of its stock or states stating that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene. |
| (b) TIME FOR FILING; SUPPLEMENTAL FILING. The corporate ownership statement shall:<br>(1) be filed with the corporation's first appearance, pleading, motion, response, or other request addressed to the court; and<br>(2) be supplemented whenever the information required by this rule changes. | **(b) Time for Filing; Supplemental Filing.** The statement must:<br>(1) be filed with the corporation's first appearance, pleading, motion, response, or other request to the court; and<br>(2) be supplemented whenever the information required by this rule changes. |

**Committee Note**

The language of Rule 7007.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The words ", other than the debtor," were removed from after the words "adversary proceeding" and the phrase "—other than the debtor—" was inserted after the words "nongovernmental corporation" at the beginning of the section at the request of the style consultants.

• The words "that identifies" were replaced with "identifying" and the word "states" was replaced with "stating."

**Summary of Public Comment**

• **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the words "that identifies" be replaced with "identifying" and the word "states" be replaced with "stating."

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7008. General Rules of Pleading** | **Rule 7008. General Rules of Pleading** |
| Rule 8 F.R.Civ.P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy court, the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court. | Fed. R. Civ. P. 8 applies in an adversary proceeding. The allegation of jurisdiction required by that rule must include a reference to the name, number, and Code chapter of the case that the adversary proceeding relates to and the district and division where it is pending. In an adversary proceeding before a bankruptcy court, a complaint, counterclaim, crossclaim, or third-party complaint must state whether the pleader does or does not consent to the entry of ~~a~~ final orders or judgment by the bankruptcy court. |

**Committee Note**

The language of Rule 7008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The words "a final order" were replaced with "final orders."

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the words "where it is pending" are ambiguous and that "it" should be changed to "the case" or "such case."

> ***Response***: The only possible antecedent for "it" is "the adversary proceeding." There is no ambiguity. No change was made in response to this suggestion.

The NBC is concerned that the change from "final orders" in the existing rule to "final order" in the restyled rule could be a substantive change. It notes that it is possible that there could be more than one final order in an adversary proceeding and the existing rule applies to all of them.

> ***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7009. Pleading Special Matters** | **Rule 7009. Pleading Special Matters** |
| Rule 9 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 9 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7010. Form of Pleadings** | **Rule 7010. Form of Pleadings in an Adversary Proceeding** |
| Rule 10 F.R.Civ.P. applies in adversary proceedings, except that the caption of each pleading in such a proceeding shall conform substantially to the appropriate Official Form. | Fed. R. Civ. P. 10 applies in an adversary proceeding—except that a pleading's caption must substantially conform ~~substantially~~ to the appropriate version of ~~Official~~ Form 416. |

**Committee Note**

The language of Rule 7010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The language "conform substantially" has been changed to "substantially conform" at the request of the style consultants.

• The word "Official" before "Form" has been deleted for consistency throughout the Restyled Rules; whenever an Official Form is referred to by number, the practice is to use "Form [number]" without "Official."

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested changing the words "Official Form 416" to "Form 416."

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7012. Defenses and Objections—When and How Presented— By Pleading or Motion—Motion for Judgment on the Pleadings** | **Rule 7012. Defenses; Effect of a Motion; Motion for Judgment on the Pleadings and Other Procedural Matters** |
| (a) WHEN PRESENTED. If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court. The court shall prescribe the time for service of the answer when service of a complaint is made by publication or upon a party in a foreign country. A party served with a pleading stating a cross-claim shall serve an answer thereto within 21 days after service. The plaintiff shall serve a reply to a counterclaim in the answer within 21 days after service of the answer or, if a reply is ordered by the court, within 21 days after service of the order, unless the order otherwise directs. The United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 35 days after service upon the United States attorney of the pleading in which the claim is asserted. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 14 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, the responsive pleading shall be served within 14 days after the service of a more definite statement. | **(a) Time to Serve.** The time to serve a responsive pleading is as follows:<br>(1) ***Answer to a Complaint in General.*** A defendant must serve an answer to a complaint within 30 days after the summons was issued, unless the court sets a different time.<br>(2) ***Answer to a Complaint Served by Publication or on a Party in a Foreign Country.*** The court must set the time to serve an answer to a complaint served by publication or served on a party in a foreign country.<br>(3) ***Answer to a Crossclaim.*** A party served with a pleading that states a crossclaim must serve an answer to the crossclaim within 21 days after being served.<br>(4) ***Answer to a Counterclaim.*** A plaintiff served with an answer that contains a counterclaim must serve an answer ~~answer~~to the counterclaim within 21 days after service of:<br>(A) the answer; or<br>(B) a court order requiring an answer, unless the order states otherwise.<br>(5) ***Answer to a Complaint or Crossclaim—or Answer to a Counterclaim—Served on the United States or an Officer or Agency.*** The United States or its officer or agency must serve:<br>(A) an answer to a complaint within 35 days after the summons was issued; and |

| ORIGINAL | REVISION |
|---|---|
| | (B) an answer to a crossclaim or ~~an answer to~~ a counterclaim within 35 days after the United States attorney is served with the pleading that asserts the claim.<br><br>(6) ***Effect of a Motion.*** Unless the court sets a different time, serving a motion under this rule alters these times as follows:<br><br>(A) if the court denies the motion or postpones disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or<br><br>(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the statement is served. |
| (b) APPLICABILITY OF RULE 12(b)–(i) F.R.CIV.P. Rule 12(b)–(i) F.R.Civ.P. applies in adversary proceedings. A responsive pleading shall include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court. | **(b) Applicability of Civil Rule 12(b)–(i).** Fed. R. Civ. P. 12(b)–(i) applies in an adversary proceeding. A responsive pleading must state whether the party does or does not consent to the entry of ~~a~~ final orders or judgment by the bankruptcy court. |

**Committee Note**

The language of Rule 7012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 7012(a)(4) the word "answer" was replaced with "serve an answer to".

• Rule 7012(a)(5)(B) was modified to remove the words "an answer to" before "a counterclaim" at the request of the style consultants.

• The words "a final order" in Rule 7012(b) were replaced with "final orders".

**Summary of Public Comment**

• **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC again, as in Rule 7008, objects to the use of "a final order" rather than "final orders" in 7012(b), stating that it is a substantive change.

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7013. Counterclaim and Cross-Claim** | **Rule 7013. Counterclaim and Crossclaim** |
| Rule 13 F.R.Civ.P. applies in adversary proceedings, except that a party sued by a trustee or debtor in possession need not state as a counterclaim any claim that the party has against the debtor, the debtor's property, or the estate, unless the claim arose after the entry of an order for relief. A trustee or debtor in possession who fails to plead a counterclaim through oversight, inadvertence, or excusable neglect, or when justice so requires, may by leave of court amend the pleading, or commence a new adversary proceeding or separate action. | Fed. R. Civ. P. 13 applies in an adversary proceeding. But a party sued by a trustee or debtor in possession need not state as a counterclaim any claim the party has against the debtor, the debtor's property, or the estate, unless the claim arose after the order for relief. If, through oversight, inadvertence, or excusable neglect, a trustee or debtor in possession fails to plead a counterclaim—or when justice so requires—the court may permit the trustee or debtor in possession to:<br>(a) amend the pleading; or<br>(b) commence a new adversary proceeding or separate action. |

**Committee Note**

The language of Rule 7013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7014. Third-Party Practice** | **Rule 7014. Third-Party Practice** |
| Rule 14 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 14 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7015. Amended and Supplemental Pleadings** | **Rule 7015. Amended and Supplemental Pleadings** |
| Rule 15 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 15 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7016. Pretrial Procedures** | **Rule 7016. Pretrial Procedures** |
| (a) PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT. Rule 16 F.R.Civ.P. applies in adversary proceedings.<br><br>(b) DETERMINING PROCEDURE. The bankruptcy court shall decide, on its own motion or a party's timely motion, whether:<br><br>(1) to hear and determine the proceeding;<br><br>(2) to hear the proceeding and issue proposed findings of fact and conclusions of law; or<br><br>(3) to take some other action. | **(a) Pretrial Conferences; Scheduling; Management.** Fed. R. Civ. P. 16 applies in an adversary proceeding.<br><br>**(b) Determining Procedure.** On its own or a party's timely motion, the court must decide whether:<br><br>(1) to hear and determine the proceeding;<br><br>(2) to hear it and issue proposed findings of fact and conclusions of law; or<br><br>(3) to take other action. |

**Committee Note**

The language of Rule 7016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC pointed out a formatting issue in Rule 7016(a), which was corrected. They also expressed concern that the word "it" in (b)(2) was ambiguous and should be replaced with "the proceeding" as in the current rule.

> ***Response:*** The formatting has been corrected. There is nothing that that word "it" could refer to other than "the proceeding" that is mentioned in (b)(1). It could not possibly be the court. There is no ambiguity. No change was made in response to this suggestion.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7017. Parties Plaintiff and Defendant; Capacity** | **Rule 7017. Plaintiff and Defendant; Capacity; Public Officers** |
| Rule 17 F.R.Civ.P. applies in adversary proceedings, except as provided in Rule 2010(b). | Fed. R. Civ. P. 17 applies in an adversary proceeding, except as provided in Rule 2010(b). |

**Committee Note**

The language of Rule 7017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7018. Joinder of Claims and Remedies** | **Rule 7018. Joinder of Claims** |
| Rule 18 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 18 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7019. Joinder of Persons Needed for Just Determination** | **Rule 7019. Required Joinder of ~~Persons~~Parties** |
| Rule 19 F.R.Civ.P. applies in adversary proceedings, except that (1) if an entity joined as a party raises the defense that the court lacks jurisdiction over the subject matter and the defense is sustained, the court shall dismiss such entity from the adversary proceedings and (2) if an entity joined as a party properly and timely raises the defense of improper venue, the court shall determine, as provided in 28 U.S.C. § 1412, whether that part of the proceeding involving the joined party shall be transferred to another district, or whether the entire adversary proceeding shall be transferred to another district. | Fed. R. Civ. P. 19 applies in an adversary proceeding. But these exceptions apply:<br>(a) if an entity joined as a party raises the defense that the court lacks subject-matter jurisdiction and the defense is sustained, the court must dismiss the party; and<br>(b) if an entity joined as a party properly and timely raises the defense of improper venue, the court must determine under 28 U.S.C. § 1412 whether to transfer to another district the entire adversary proceeding or just that part involving the joined party. |

**Committee Note**

The language of Rule 7019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The word "Persons" in the heading was changed to "Parties" to conform to Fed. R. Civ. P. 19.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7020. Permissive Joinder of Parties** | **Rule 7020. Permissive Joinder of Parties** |
| Rule 20 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 20 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7021. Misjoinder and Non-Joinder of Parties** | **Rule 7021. Misjoinder and Nonjoinder of Parties** |
| Rule 21 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 21 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7022. Interpleader** | **Rule 7022. Interpleader** |
| Rule 22(a) F.R.Civ.P. applies in adversary proceedings. This rule supplements—and does not limit—the joinder of parties allowed by Rule 7020. | Fed. R. Civ. P. 22(a) applies in an adversary proceeding. This rule supplements and does not limit the joinder of parties under Rule 7020. |

**Committee Note**

The language of Rule 7022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7023. Class Proceedings** | **Rule 7023. Class Actions** |
| Rule 23 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 23 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7023.1. Derivative Actions** | **Rule 7023.1. Derivative Actions** |
| Rule 23.1 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 23.1 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7023.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7023.2. Adversary Proceedings Relating to Unincorporated Associations** | **Rule 7023.2. Adversary Proceedings Relating to Unincorporated Associations** |
| Rule 23.2 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 23.2 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7023.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7024. Intervention** | **Rule 7024. Intervention** |
| Rule 24 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 24 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7025. Substitution of Parties** | **Rule 7025. Substitution of Parties** |
| Subject to the provisions of Rule 2012, Rule 25 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 25 applies in an adversary proceeding—but is subject to Rule 2012. |

**Committee Note**

The language of Rule 7025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7026. General Provisions Governing Discovery** | **Rule 7026. Duty to Disclose; General Provisions Governing Discovery** |
| Rule 26 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 26 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7027. Depositions Before Adversary Proceedings or Pending Appeal** | **Rule 7027. Depositions to Perpetuate Testimony** |
| Rule 27 F.R.Civ.P. applies to adversary proceedings. | Fed. R. Civ. P. 27 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7028. Persons Before Whom Depositions May Be Taken** | **Rule 7028. Persons Before Whom Depositions May Be Taken** |
| Rule 28 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 28 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7029. Stipulations Regarding Discovery Procedure** | **Rule 7029. Stipulations About Discovery Procedure** |
| Rule 29 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 29 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7029 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7030. Depositions Upon Oral Examination** | **Rule 7030. Depositions by Oral Examination** |
| Rule 30 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 30 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7030 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7031. Deposition Upon Written Questions** | **Rule 7031. Depositions by Written Questions** |
| Rule 31 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 31 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7031 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7032. Use of Depositions in Adversary Proceedings** | **Rule 7032. Using Depositions in Court Proceedings** |
| Rule 32 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 32 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7032 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7033. Interrogatories to Parties** | **Rule 7033. Interrogatories to Parties** |
| Rule 33 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 33 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7033 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7034. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes** | **Rule 7034. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes** |
| Rule 34 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 34 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7034 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7035. Physical and Mental Examination of Persons** | **Rule 7035. Physical and Mental Examinations** |
| Rule 35 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 35 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7035 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7036. Requests for Admission** | **Rule 7036. Requests for Admission** |
| Rule 36 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 36 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7036 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7037. Failure to Make Discovery: Sanctions** | **Rule 7037. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions** |
| Rule 37 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 37 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7037 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7040. Assignment of Cases for Trial** | **Rule 7040. Scheduling Cases for Trial** |
| Rule 40 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 40 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7040 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7041. Dismissal of Adversary Proceedings** | **Rule 7041. ~~Dismissal of~~Dismissing Adversary Proceedings** |
| Rule 41 F.R.Civ.P. applies in adversary proceedings, except that a complaint objecting to the debtor's discharge shall not be dismissed at the plaintiff's instance without notice to the trustee, the United States trustee, and such other persons as the court may direct, and only on order of the court containing terms and conditions which the court deems proper. | Fed. R. Civ. P. 41 applies in an adversary proceeding. But a complaint objecting to the debtor's discharge may be dismissed on the plaintiff's motion only:<br>(a) by a court order setting out any terms and conditions for the dismissal~~with notice to the trustee, the United States trustee, and any other person as the court designates~~; and<br>(b) with notice to the trustee, the United States trustee, and any other person the court designates~~by a court order that sets out any conditions for the dismissal~~. |

**Committee Note**

The language of Rule 7041 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The language of Rule 7041(a) and (b) were reversed at the request of the style consultants.

- In what is now 7041(a), the words "that sets out" were placed with "setting out" and the words "terms and" were inserted before "conditions".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the words "that sets out" be replaced with "setting out" in former 7041(b).

***Response***: Suggestion accepted.

The NBC believes that replacing the phrase "terms and conditions" in what is now 7041(a) with "conditions" is a substantive change. Not all terms are conditions. They request that the words "terms and" be reinserted.

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7042. Consolidation of Adversary Proceedings; Separate Trials** | **Rule 7042. Consolidating Adversary Proceedings; Separate Trials** |
| Rule 42 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 42 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7042 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7052. Findings by the Court** | **Rule 7052. Findings and Conclusions by the Court; Judgment on Partial Findings** |
| Rule 52 F.R.Civ.P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F.R.Civ.P. to the entry of judgment under Rule 58 F.R.Civ.P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a). | Fed. R. Civ. P. 52 applies in an adversary proceeding—except that a motion under Fed. R. Civ. P. 52(b) to amend or add findings must be filed within 14 days after the judgment is entered. The reference in Fed. R. Civ. P. 52(a) to entering a judgment under Fed. R. Civ. P. 58 must be read as referring to entering a judgment or order under Rule 5003(a). |

**Committee Note**

The language of Rule 7052 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7054. Judgments; Costs** | **Rule 7054. Judgments; Costs** |
| (a) JUDGMENTS. Rule 54(a)–(c) F.R.Civ.P. applies in adversary proceedings. | **(a) Judgment.** Fed. R. Civ. P. 54(a)–(c) applies in an adversary proceeding. |
| (b) COSTS; ATTORNEY'S FEES.<br>(1) *Costs Other Than Attorney's Fees.* The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on 14 days' notice; on motion served within seven days thereafter, the action of the clerk may be reviewed by the court.<br>(2) *Attorney's Fees.*<br>(A) Rule 54(d)(2)(A)–(C) and (E) F.R.Civ.P. applies in adversary proceedings except for the reference in Rule 54(d)(2)(C) to Rule 78.<br>(B) By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. | **(b) Costs and Attorney's Fees.**<br>(1) ***Costs Other Than Attorney's Fees.*** The court may allow costs to the prevailing party, unless a federal statute or these rules provide otherwise. Costs against the United States, its officers, and its agencies may be imposed only to the extent permitted by law. The clerk, on 14 days' notice, may tax costs, and the court, on motion served within the next 7 days, may review the clerk's action.<br>(2) ***Attorney's Fees.***<br>(A) *In General.* Fed. R. Civ. P. 54(d)(2)(A)–(C) and (E) applies in an adversary proceeding—except for the reference in ~~Rule~~ 54(d)(2)(C) to ~~Rule~~ Civil Rule 78.<br>(B) *Local Rules for Resolving Issues.* By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. |

**Committee Note**

The language of Rule 7054 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In 7054(b)(2)(A), the word "Rule" was deleted before "54(d)(2)(C) and replaced by "Civil Rule" before "78".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the two references to "Rule" in 7054 (b)(2)(A) should be changed to "Fed. R. Civ. P." because the restyled rules use the term "Rule" to refer only to Bankruptcy Rules.

> ***Response***: The NBC is correct that the word "Rule" is used to refer to Bankruptcy Rules. The word in this section is deleted before "54(d)(2)(C)" (because it is referring to the rule earlier in the same sentence), and replaced with "Civil Rule" before "78" (which is the phrase used in the heading to 7012(b)).

| ORIGINAL | REVISION |
|---|---|
| **Rule 7055. Default** | **Rule 7055. Default; Default Judgment** |
| Rule 55 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 55 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7055 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7056. Summary Judgment** | **Rule 7056. Summary Judgment** |
| Rule 56 F.R.Civ.P. applies in adversary proceedings, except that any motion for summary judgment must be made at least 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a different time is set by local ruleor the court orders otherwise. | Fed. R. Civ. P. 56 applies in an adversary proceeding. But a motion for summary judgment must be filed at least 30 days beforethe first date set for an evidentiary hearing onany issue that the motion addresses, unless a local rule sets a different time or the court orders otherwise. |

**Committee Note**

The language of Rule 7056 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7058. Entering Judgment in Adversary Proceeding** | **Rule 7058. Entering Judgment** |
| Rule 58 F.R.Civ.P. applies in adversary proceedings. In these proceedings, the reference in Rule 58 F.R.Civ.P. to the civil docket shall be read as a referenceto the docket maintained by the clerk under Rule 5003(a). | Fed. R. Civ. P. 58 applies in an adversary proceeding. A reference in that rule to the civil docket must be read as referring to the docket maintained by the clerk under Rule 5003(a). |

**Committee Note**

The language of Rule 7058 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested changing the words "must be read as referring to" to "is".

> ***Response:*** The suggested change does not work. The reference in civil rule 58 to the docket is not the docket maintained by the clerk under Rule 5003(a). The reference is supposed to be read to refer to that docket rather than the district court docket. No change was made in response to this suggestion.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7062. Stay of Proceedings to Enforce a Judgment** | **Rule 7062. Stay of Proceedings to Enforce a Judgment** |
| Rule 62 F.R.Civ.P. applies in adversary proceedings, except that proceedings to enforce a judgment are stayed for 14 days after its entry. | Fed. R. Civ. P. 62 applies in an adversary proceeding—except that a proceeding to enforce a judgment is stayed for 14 days after its entry. |

**Committee Note**

The language of Rule 7062 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7064. Seizure of Person or Property** | **Rule 7064. Seizing a Person or Property** |
| Rule 64 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 64 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7064 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7065. Injunctions** | **Rule 7065. Injunctions** |
| Rule 65 F.R.Civ.P. applies in adversary proceedings, except that a temporary restraining order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c). | Fed. R. Civ. P. 65 applies in an adversary proceeding. But on application of a debtor, trustee, or debtor in possession, the court may issue a temporary restraining order or preliminary injunction without complying with subdivision (c) of that rule. |

**Committee Note**

The language of Rule 7065 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7067. Deposit in Court** | **Rule 7067. Deposit into Court** |
| Rule 67 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 67 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7067 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7068. Offer of Judgment** | **Rule 7068. Offer of Judgment** |
| Rule 68 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 68 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7068 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 7069. Execution** | **Rule 7069. Execution** |
| Rule 69 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 69 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7069 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7070. Judgment for Specific Acts; Vesting Title** | **Rule 7070. Enforcing a Judgment for a Specific Act; Vesting Title** |
| Rule 70 F.R.Civ.P. applies in adversary proceedings and the court may enter a judgment divesting the title of any party and vesting title in others whenever the real or personal property involved is within the jurisdiction of the court. | Fed. R. Civ. P. 70 applies in an adversary proceeding. When real or personal property is within the court's jurisdiction, the court may enter a judgment divesting a party's title and vesting it in another person. |

**Committee Note**

The language of Rule 7070 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7071. Process in Behalf of and Against Persons Not Parties** | **Rule 7071. Enforcing Relief For or Against a Nonparty** |
| Rule 71 F.R.Civ.P. applies in adversary proceedings. | Fed. R. Civ. P. 71 applies in an adversary proceeding. |

**Committee Note**

The language of Rule 7071 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 7087. Transfer of Adversary Proceeding** | **Rule 7087. Transferring an Adversary Proceeding** |
| On motion and after a hearing, the court may transfer an adversary proceeding or any part thereof to another district pursuant to 28 U.S.C. § 1412, except as provided in Rule 7019(2). | On motion and after a hearing, the court may transfer an adversary proceeding, or any part of it, to another district under 28 U.S.C. § 1412—except as provided in Rule 7019(b). |

**Committee Note**

The language of Rule 7087 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

# Bankruptcy Rules Restyling

## 8000 Series

| ORIGINAL | REVISION |
|---|---|
| PART VIII—APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL | **PART VIII. APPEAL TO A DISTRICT COURT OR A BANKRUPTCY APPELLATE PANEL** |
| **Rule 8001. Scope of Part VIII Rules; Definition of "BAP"; Method of Transmission** | **Rule 8001. Scope; Definition of "BAP"; Sending Documents Electronically** |
| (a) GENERAL SCOPE. These Part VIII rules govern the procedure in a United States district court and a bankruptcy appellate panel on appeal from a judgment, order, or decree of a bankruptcy court. They also govern certain procedures on appeal to a United States court of appeals under 28 U.S.C. § 158(d). | **(a) Scope.** These Part VIII rules govern the procedure in a United States district court and in a bankruptcy appellate panel on appeal from a bankruptcy court's judgment, order, or decree. They also govern certain procedures on appeal to a United States court of appeals under 28 U.S.C. § 158(d). |
| (b) DEFINITION OF "BAP." "BAP" means a bankruptcy appellate panel established by a circuit's judicial council and authorized to hear appeals from a bankruptcy court under 28 U.S.C. § 158. | **(b) Definition of "BAP."** "BAP" means a bankruptcy appellate panel established by a circuit judicial council and authorized to hear appeals from a bankruptcy court under 28 U.S.C. § 158. |
| (c) METHOD OF TRANSMITTING DOCUMENTS. A document must be sent electronically under these Part VIII rules, unless it is being sent by or to an individual who is not represented by counsel or the court's governing rules permit or require mailing or other means of delivery. | **(c) Requirement to Send Documents Electronically.** Under these Part VIII rules, a document must be sent electronically, unless:<br>(1) it is sent by or to an individual who is not represented by counsel; or<br>(2) the court's local rules permit or require mailing or delivery by other means. |

**Committee Note**

The language of Rule 8001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8001(a), the word "in" was inserted before the words "a bankruptcy appellate panel" at the request of the style consultants.

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 8002. Time for Filing Notice of Appeal** | **Rule 8002. Time to File a Notice of Appeal** |
| (a) IN GENERAL.<br><br>(1) *Fourteen-Day Period.* Except as provided in subdivisions (b) and (c), a notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed.<br><br>(2) *Filing Before the Entry of Judgment.* A notice of appeal filed after the bankruptcy court announces a decision or order—but before entry of the judgment, order, or decree—is treated as filed on the date of and after the entry.<br><br>(3) *Multiple Appeals.* If one party files a timely notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise allowed by this rule, whichever period ends later.<br><br>(4) *Mistaken Filing in Another Court.* If a notice of appeal is mistakenly filed in a district court, BAP, or court of appeals, the clerk of that court must state on the notice the date on which it was received and transmit it to the bankruptcy clerk. The notice of appeal is then considered filed in the bankruptcy court on the date so stated.<br><br>(5) *Entry Defined.*<br><br>(A) A judgment, order, or decree is entered for purposes of this Rule 8002(a):<br><br>(i) when it is entered in the docket under Rule 5003(a), or | **(a) In General.**<br><br>(1) ***Time to File.*** Except as (b) and (c) provide otherwise, a notice of appeal must be filed with the bankruptcy clerk within 14 days after the judgment, order, or decree to be appealed is entered.<br><br>(2) ***Filing Before the Entry of Judgment.*** A notice of appeal filed after the bankruptcy court announces a decision or order—but before entry of the judgment, order, or decree—is treated as filed on the date of and after the entry.<br><br>(3) ***Multiple Appeals.*** If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise allowed by this rule— whichever is later~~, whichever period ends later~~.<br><br>(4) ***Mistaken Filing in Another Court.*** If a notice of appeal is mistakenly filed in a district court, BAP, or court of appeals, that court's clerk must note on it the date when it was received and send it to the bankruptcy clerk. The notice is then considered filed in the bankruptcy court on the date noted.<br><br>(5) ***Entry Defined.***<br><br>(A) *In General.* A judgment, order, or decree is entered for purposes of this subdivision (a):<br><br>(i) when it is entered in the docket under Rule 5003(a); or<br><br>(ii) if Rule 7058 applies and Fed. R. Civ. P. 58(a) requires a separate document, when the |

| ORIGINAL | REVISION |
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| (ii) if Rule 7058 applies and Rule 58(a) F.R.Civ.P. requires a separate document, when the judgment, order, or decree is entered in the docket under Rule 5003(a) and when the earlier of these events occurs:<br>• the judgment, order, or decree is set out in a separate document; or<br>• 150 days have run from entry of the judgment, order, or decree in the docket under Rule 5003(a).<br>(B) A failure to set out a judgment, order, or decree in a separate document when required by Rule 58(a) F.R.Civ.P. does not affect the validity of an appeal from that judgment, order, or decree. | judgment, order, or decree is entered in the docket under Rule 5003(a) and when the earlier of these events occurs:<br>• the judgment, order, or decree is set out in a separate document; or<br>• 150 days have run from entry of the judgment, order, or decree in the docket under Rule 5003(a).<br>(B) *Failure to Use a Separate Document.* A failure to set out a judgment, order, or decree in a separate document when required by Fed. R. Civ. P. 58(a) does not affect the validity of an appeal from that judgment, order, or decree. |
| (b) EFFECT OF A MOTION ON THE TIME TO APPEAL.<br>(1) *In General.* If a party files in the bankruptcy court any of the following motions and does so within the time allowed by these rules, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion: | **(b) Effect of a Motion on the Time to Appeal.**<br>(1) ***In General.*** If a party files in the bankruptcy court any of the following motions—and does so within the time allowed by these rules—the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion: |

| ORIGINAL | REVISION |
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| (A) to amend or make additional findings under Rule 7052, whether or not granting the motion would alter the judgment;<br><br>(B) to alter or amend the judgment under Rule 9023;<br><br>(C) for a new trial under Rule 9023; or<br><br>(D) for relief under Rule 9024 if the motion is filed within 14 days after the judgment is entered.<br><br>(2) *Filing an Appeal Before the Motion is Decided.* If a party files a notice of appeal after the court announces or enters a judgment, order, or decree—but before it disposes of any motion listed in subdivision (b)(1)—the notice becomes effective when the order disposing of the last such remaining motion is entered.<br><br>(3) *Appealing the Ruling on the Motion.* If a party intends to challenge an order disposing of any motion listed in subdivision (b)(1)—or the alteration or amendment of a judgment, order, or decree upon the motion—the party must file a notice of appeal or an amended notice of appeal. The notice or amended notice must comply with Rule 8003 or 8004 and be filed within the time prescribed by this rule, measured from the entry of the order disposing of the last such remaining motion.<br><br>(4) *No Additional Fee.* No additional fee is required to file an amended notice of appeal. | (A) to amend or make additional findings under Rule 7052, whether or not granting the motion would alter the judgment;<br><br>(B) to alter or amend the judgment under Rule 9023;<br><br>(C) for a new trial under Rule 9023; or<br><br>(D) for relief under Rule 9024 if the motion is filed within 14 days after the judgment is entered.<br><br>(2) ***Notice of Appeal Filed Before a Motion Is Decided.*** If a party files a notice of appeal after the court announces or enters a judgment, order, or decree—but before it disposes of any motion listed in (1)—the notice becomes effective when the order disposing of the last such remaining motion is entered.<br><br>(3) ***Appealing ~~the~~ a Ruling on ~~the~~ a Motion.*** A party intending to challenge an order disposing of a motion listed in (1)—or an alteration or amendment of a judgment, order, or decree made by a decision on the motion—must file a notice of appeal or an amended notice of appeal. It must:<br><br>(A) comply with Rule 8003 or 8004; and<br><br>(B) be filed within the time ~~prescribed~~ allowed by this rule, measured from the entry of the order disposing of the last such remaining motion.<br><br>(4) ***No Additional Fee for an Amended Notice.*** No additional fee is required to file an amended notice of appeal. |

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| (c) APPEAL BY AN INMATE CONFINED IN AN INSTITUTION.<br><br>(1) *In General.* If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 8002(c)(1). If an inmate files a notice of appeal from a judgment, order, or decree of a bankruptcy court, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:<br><br>(A) it is accompanied by:<br><br>(i) a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being pre-paid; or<br><br>(ii) evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or<br><br>(B) the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 8002(c)(1)(A)(i).<br><br>(2) *Multiple Appeals.* If an inmate files under this subdivision the first notice of appeal, the 14-day period provided in subdivision (a)(3) for another party to file a notice of appeal runs from the date when the bankruptcy clerk dockets the first notice. | **(c) Appeal by an Inmate Confined in an Institution.**<br><br>(1) ***In General.*** If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this paragraph (1). If an inmate files a notice of appeal from a bankruptcy court's judgment, order, or decree ~~of a bankruptcy court~~, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:<br><br>(A) it is accompanied by:<br><br>(i) a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or<br><br>(ii) evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or<br><br>(B) the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies (A)(i).<br><br>(2) ***Multiple Appeals.*** If an inmate files under this subdivision (c) the first notice of appeal, the 14-day period provided in (a)(3) for another party to file a notice of appeal runs from the date when the bankruptcy clerk dockets the first notice. |

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| (d) EXTENDING THE TIME TO APPEAL.<br><br>(1) *When the Time May be Extended.* Except as provided in subdivision (d)(2), the bankruptcy court may extend the time to file a notice of appeal upon a party's motion that is filed:<br><br>(A) within the time prescribed by this rule; or<br><br>(B) within 21 days after that time, if the party shows excusable neglect.<br><br>(2) *When the Time May Not be Extended.* The bankruptcy court may not extend the time to file a notice of appeal if the judgment, order, or decree appealed from:<br><br>(A) grants relief from an automatic stay under § 362, 922, 1201, or 1301 of the Code;<br><br>(B) authorizes the sale or lease of property or the use of cash collateral under § 363 of the Code;<br><br>(C) authorizes the obtaining of credit under § 364 of the Code;<br><br>(D) authorizes the assumption or assignment of an executory contract or unexpired lease under § 365 of the Code;<br><br>(E) approves a disclosure statement under § 1125 of the Code; or<br><br>(F) confirms a plan under § 943, 1129, 1225, or 1325 of the Code. | **(d) Extending the Time to File a Notice of Appeal.**<br><br>(1) ***When the Time May Be Extended.*** Except as (2) provides otherwise, the bankruptcy court may, on motion, extend the time to file a notice of appeal[2] if the motion is filed:<br><br>(A) within the time ~~prescribed~~ allowed by this rule; or<br><br>(B) within 21 days after that time expires if the party shows excusable neglect.<br><br>(2) ***When the Time ~~May~~ Must Not Be Extended.*** The bankruptcy court ~~may not~~must not extend the time to file the notice if the judgment, order, or decree being appealed:<br><br>(A) grants relief from ~~the~~ an automatic stay under § 362, 922, 1201, or 1301;<br><br>(B) authorizes the sale or lease of property or the use of cash collateral under § 363;<br><br>(C) authorizes obtaining credit under § 364;<br><br>(D) authorizes assuming or assigning an executory contract or unexpired lease under § 365;<br><br>(E) approves a disclosure statement under § 1125; or<br><br>(F) confirms a plan under § 943, 1129, 1225, or 1325. |

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| (3) TIME LIMITS ON AN EXTENSION. No extension of time may exceed 21 days after the time prescribed by this rule, or 14 days after the order granting the motion to extend time is entered, whichever is later. | (3) ***Limit on Extending Time.*** An extension of time must not exceed 21 days after the time ~~prescribed~~ allowed by this rule, or 14 days after the order granting the motion to extend time is entered—whichever is later. |

**Committee Note**

The language of Rule 8002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In 8002(a)(3), the phrase ", whichever period ends later" was replaced with "—whichever is later" at the request of the style consultants.

• In 8002(b)(3) the heading is changed from "Appealing the Ruling on the Motion" to "Appealing a Ruling on a Motion" at the request of the style consultants.

• 8002(b)(3)(B), 8002(d)(1)(A) and 8002(d)(3) have been modified to replace the word "prescribed" with "allowed" at the request of the style consultants.

• In 8002(c)(1) the phrase "of a bankruptcy court" has been removed and the words "bankruptcy court's" have been inserted before "judgment, order, or decree".

• A phantom footnote call number was removed in 8002(d)(1).

• In 8002(d)(2) the word "May" in the title was replaced with "Must" and the phrase "may not" was replaced with "must not".

• In 8002(d)(2)(A) the words "the automatic stay" were replaced with "an automatic stay".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In 8002(a)(1), the NBC recommended retaining the existing title "Fourteen Day Period" instead of "Time to File" in order to emphasize to users that the normal 30-day period applicable in federal civil cases is not applicable here.

> ***Response***: This is a matter of style, and on style we defer to the style consultants. Other sections of the restyled rules have the same heading. No change was made in response to this comment.

In 8002(a)(2), the NBC suggested replacing the words "on the date of and after the entry" with "upon entry".

> ***Response***: This is a substantive change. The proposed language would make the time of the filing of the notice of appeal *the same moment* as the entry of the judgment, order or decree. The existing language makes the time *after* the entry, which is correct. One cannot appeal from a judgment that has not already been entered.

The NBC suggests that the word "it" in 8002(b)(3) is ambiguous and should retain the original language of "the notice or amended notice."

> ***Response***: The word "It" is understood to refer to the nearest antecedent, which is the "notice of appeal or amended notice of appeal." Nothing else would make sense. No change was made in response to this comment.

The NBC pointed out a phantom footnote call number in 8002(d)(1).

> ***Response***: Eliminated.

In 8002(d)(2)(A) the NBC suggests reverting to "an automatic stay" rather than "the automatic stay" because there can be a stay under any of the cited Code sections.

> ***Response***: Suggestion accepted.

The NBC also pointed out what appeared to be a typographical error in 8002(d)(2)(E), but was actually just a formatting error.

> ***Response***: Formatting fixed.

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| **Rule 8003.[1] Appeal as of Right—How Taken; Docketing the Appeal** | **Rule 8003. Appeal as of Right—How Taken; Docketing the Appeal** |
| (a) FILING THE NOTICE OF APPEAL.<br><br>(1) *In General.* An appeal from a judgment, order, or decree of a bankruptcy court to a district court or BAP under 28 U.S.C. § 158(a)(1) or (a)(2) may be taken only by filing a notice of appeal with the bankruptcy clerk within the time allowed by Rule 8002.<br><br>(2) *Effect of Not Taking Other Steps.* An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the district court or BAP to act as it considers appropriate, including dismissing the appeal.<br><br>(3) *Contents.* The notice of appeal must:<br><br>(A) conform substantially to the appropriate Official Form;<br><br>(B) be accompanied by the judgment—or the appealable order or decree—from which the appeal is taken; and<br><br>(C) be accompanied by the prescribed fee. | **(a) Filing a Notice of Appeal.**<br><br>(1) ***Time to File.*** An appeal under 28 U.S.C. § 158(a)(1) or (2) from ~~a~~ a bankruptcy court's judgment, order, or decree ~~of a bankruptcy court~~ to a district court or a BAP may be taken only by filing a notice of appeal with the bankruptcy clerk within the time allowed by Rule 8002.<br><br>(2) ***Failure to Take Any Other Step.*** An appellant's failure to take any ~~other~~ step other than timely filing a notice of appeal does not affect the appeal's validity, but is ground only for the district court or BAP to act as it considers appropriate, including dismissing the appeal.<br><br>(3) ***Contents of the Notice of Appeal.*** A notice of appeal must:<br><br>(A) conform substantially to Form 417A;<br><br>(B) be accompanied by the judgment—or the appealable order or decree—from which the appeal is taken; and<br><br>(C) be accompanied by the prescribed filing fee. |
| (4) *Merger.* The notice of appeal encompasses all orders that, for purposes of appeal, merge into the identified judgment or appealable order or decree. It is not necessary to identify those orders in the notice of appeal. | (4) ***Merger.*** The notice of appeal encompasses all orders that, for purposes of appeal, merge into the identified judgment or appealable order or decree. It is not necessary to identify those orders in the notice of appeal. |

[1] Rule 8003 original text shows changes on track to go into effect on December 1, 2023 if approved by the Supreme Court and if Congress takes no contrary action.

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| (5) *Final Judgment.* The notice of appeal encompasses the final judgment, whether or not that judgment is set out in a separate document under Rule 7058, if the notice identifies:<br><br>(A) an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties; or<br><br>(B) an order described in Rule 8002(b)(1).<br><br>(6) *Limited Appeal.* An appellant may identify only part of a judgment or appealable order or decree by expressly stating that the notice of appeal is so limited. Without such an express statement, specific identifications do not limit the scope of the notice of appeal.<br><br>(7) *Impermissible Ground for Dismissal.* An appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into that judgment or appealable order or decree.<br><br>(8) *Clerk's Request for Additional Copies.* If requested to do so, the appellant must furnish the bankruptcy clerk with enough copies of the notice to enable the clerk to comply with subdivision (c). | (5) ***Final Judgment.*** The notice of appeal encompasses the final judgment, whether or not that judgment is set out in a separate document under Rule 7058, if the notice identifies:<br><br>(A) an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties; or<br><br>(B) an order described in Rule 8002(b)(1).<br><br>(6) ***Limited Appeal.*** An appellant may identify only part of a judgment or appealable order or decree by expressly stating that the notice of appeal is so limited. Without such an express statement, specific identifications do not limit the scope of the notice of appeal.<br><br>(7) ***Impermissible Ground for Dismissal.*** An appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into that judgment or appealable order or decree.<br><br>(8) ***Clerk's Request for Additional Copies of the Notice of Appeal.*** On the bankruptcy clerk's request, the appellant must provide enough copies of the notice of appeal to enable the clerk to comply with (c). |

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| (b) JOINT OR CONSOLIDATED APPEALS.<br><br>(1) *Joint Notice of Appeal.* When two or more parties are entitled to appeal from a judgment, order, or decree of a bankruptcy court and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.<br><br>(2) *Consolidating Appeals.* When parties have separately filed timely notices of appeal, the district court or BAP may join or consolidate the appeals. | **(b) Joint or Consolidated Appeals.**<br><br>(1) ***Joint Notice of Appeal.*** When two or more parties are entitled to appeal from a bankruptcy court's judgment, order, or decree and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.<br><br>(2) ***Consolidating Appeals.*** When parties have separately filed timely notices of appeal, the district court or BAP may join or consolidate the appeals. |
| (c) SERVING THE NOTICE OF APPEAL.<br><br>(1) *Serving Parties and Transmitting to the United States Trustee.* The bankruptcy clerk must serve the notice of appeal on counsel of record for each party to the appeal, excluding the appellant, and transmit it to the United States trustee. If a party is proceeding pro se, the clerk must send the notice of appeal to the party's last known address. The clerk must note, on each copy, the date when the notice of appeal was filed.<br><br>(2) *Effect of Failing to Serve or Transmit Notice.* The bankruptcy clerk's failure to serve notice on a party or transmit notice to the United States trustee does not affect the validity of the appeal.<br><br>(3) *Noting Service on the Docket.* The clerk must note on the docket the names of the parties served and the date and method of the service. | **(c) Serving the Notice of Appeal.**<br><br>(1) ***Serving Parties; Sending to the United States Trustee.*** The bankruptcy clerk must serve the notice of appeal by sending a copy to counsel of record for each party to the appeal—excluding the appellant's counsel—and send it to the United States trustee. If a party is proceeding pro se, the clerk must send the notice to the party's last known address. The clerk must note, on each copy, the date when the notice of appeal was filed.<br><br>(2) ***Failure to Serve the Notice of Appeal.*** The bankruptcy clerk's failure to serve notice on a party or send notice to the United States trustee does not affect the appeal's validity ~~of the appeal~~.<br><br>(3) ***Entry of Service on the Docket.*** The clerk must note on the docket the names of the parties served and the date and method of service. |

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| (d) TRANSMITTING THE NOTICE OF APPEAL TO THE DISTRICT COURT OR BAP; DOCKETING THE APPEAL.<br><br>(1) *Transmitting the Notice.* The bankruptcy clerk must promptly transmit the notice of appeal to the BAP clerk if a BAP has been established for appeals from that district and the appellant has not elected to have the district court hear the appeal. Otherwise, the bankruptcy clerk must promptly transmit the notice to the district clerk.<br><br>(2) *Docketing in the District Court or BAP.* Upon receiving the notice of appeal, the district or BAP clerk must docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding, and must identify the appellant, adding the appellant's name if necessary. | **(d) Sending the Notice of Appeal to the District Court or BAP; Docketing the Appeal.**<br><br>(1) ***Where to Send the Notice of Appeal.*** If a BAP has been established to hear appeals from that district—and an appellant has not elected to have the appeal heard in the district court—the bankruptcy clerk must promptly send the notice of appeal to the BAP clerk. Otherwise, the bankruptcy clerk must promptly send it to the district clerk.<br><br>(2) ***Docketing the Appeal.*** Upon receiving the notice of appeal, the ~~BAP clerk or~~ district or BAP clerk must:<br><br>(A) docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding; and<br><br>(B) identify the appellant, adding the appellant's name if necessary. |

**Committee Note**

The language of Rule 8003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The phrase "of a bankruptcy court" was deleted in Rule 8003(a)(1) and replaced with the phrase "a bankruptcy court's" before "judgment, order, or decree" at the request of the style consultants.

• In Rule 8003(a)(2) the word "other" is deleted before "step" and the words "other than timely filing a notice of appeal" are inserted after "step".

• The changes in Rule 8003(a)(3)-(8) are from the version that was separately published for comment in August 2021. The heading of (a)(3) has been changed from "Contents" to "Content of the Notice of Appeal" and the heading of (a)(8) has been changed from "Clerk's Request for Additional Copies" to "Clerk's Request for Additional Copies of the Notice of Appeal."

• The word "counsel" was inserted in Rule 8003(c)(1) after the word "appellant's" at the request of the style consultants.

• In Rule 8003(c)(2), the phrase "appeal's validity" replaces "validity of the appeal" at the request of the style consultants.

• The phrase "the BAP clerk or district clerk" in Rule 8003(d)(2) was replaced with "the district or BAP clerk" in an effort to make references to those clerks uniform throughout the restyled rules.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC objects to the reference to "any other step" in 8003(a)(2) because it does not identify other than what. They suggest returning to the language of the current rule.

> ***Response***: Suggestion accepted with style modifications.

The use of "it" in 8003(d)(1) in the final sentence is ambiguous to the NBC. They suggest using "the notice" instead as under the current rule.

> ***Response***: The only thing being "sent" in this paragraph is the notice of appeal. There is no ambiguity. No change was made in response to this suggestion.

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| **Rule 8004. Appeal by Leave—How Taken; Docketing the Appeal** | **Rule 8004. Leave to Appeal ~~by Leave~~ from an Interlocutory Order or Decree Under 28 U.S.C. § 158(a)(3)** |
| (a) NOTICE OF APPEAL AND MOTION FOR LEAVE TO APPEAL. To appeal from an interlocutory order or decree of a bankruptcy court under 28 U.S.C. § 158(a)(3), a party must file with the bankruptcy clerk a notice of appeal as prescribed by Rule 8003(a). The notice must:<br>(1) be filed within the time allowed by Rule 8002;<br>(2) be accompanied by a motion for leave to appeal prepared in accordance with subdivision (b); and<br>(3) unless served electronically using the court's transmission equipment, include proof of service in accordance with Rule 8011(d). | **(a) Notice of Appeal and Accompanying Motion for Leave to Appeal.** To appeal under 28 U.S.C. § 158(a)(3) from a bankruptcy court's interlocutory order or decree, a party must file with the bankruptcy clerk a notice of appeal under Rule 8003(a). The notice must:<br>(1) be filed within the time allowed by Rule 8002;<br>(2) be accompanied by a motion for leave to appeal prepared in accordance with (b); and<br>(3) unless served electronically using the court's electronic-filing system, include proof of service in accordance with Rule 8011(d). |
| (b) CONTENTS OF THE MOTION; RESPONSE.<br>(1) *Contents.* A motion for leave to appeal under 28 U.S.C. § 158(a)(3) must include the following:<br>(A) the facts necessary to understand the question presented;<br>(B) the question itself;<br>(C) the relief sought;<br>(D) the reasons why leave to appeal should be granted; and<br>(E) a copy of the interlocutory order or decree and any related opinion or memorandum. | **(b) Content of the Motion for Leave to Appeal; Response.**<br>(1) ***Content.*** A motion for leave to appeal under 28 U.S.C. § 158(a)(3) must include:<br>(A) the facts needed to understand the question presented;<br>(B) the question itself;<br>(C) the relief sought;<br>(D) the reasons why leave to appeal should be granted; and<br>(E) a copy of the interlocutory order or decree and any related opinion or memorandum. |

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| (2) *Response.* A party may file with the district or BAP clerk a response in opposition or a cross-motion within 14 days after the motion is served. | (2) ***Response.*** Within 14 days after the motion for leave ~~has been~~is served, a party may file with the district ~~clerk~~ or BAP clerk a response in opposition or a cross-motion. |
| (c) TRANSMITTING THE NOTICE OF APPEAL AND THE MOTION; DOCKETING THE APPEAL; DETERMINING THE MOTION.<br><br>(1) *Transmitting to the District Court or BAP.* The bankruptcy clerk must promptly transmit the notice of appeal and the motion for leave to the BAP clerk if a BAP has been established for appeals from that district and the appellant has not elected to have the district court hear the appeal. Otherwise, the bankruptcy clerk must promptly transmit the notice and motion to the district clerk.<br><br>(2) *Docketing in the District Court or BAP.* Upon receiving the notice and motion, the district or BAP clerk must docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding, and must identify the appellant, adding the appellant's name if necessary.<br><br>(3) *Oral Argument Not Required.* The motion and any response or cross-motion are submitted without oral argument unless the district court or BAP orders otherwise. | **(c) Sending the Notice of Appeal and Motion for Leave to Appeal; Docketing the Appeal; Oral Argument Not Required.**<br><br>(1) ***Sending to the District Court or BAP.*** If a BAP has been established to hear appeals from that district—and an appellant has not elected to have the appeal heard in the district court—the bankruptcy clerk must promptly send to the BAP clerk the notice of appeal and the motion for leave to appeal ~~to the BAP clerk~~. Otherwise, the bankruptcy clerk must promptly send the notice and motion to the district clerk.<br><br>(2) ***Docketing the Appeal.*** Upon receiving the notice and motion, the district or BAP clerk must docket the appeal as prescribed by Rule 8003(d)(2).<br><br>(3) ***Oral Argument Not Required.*** Unless the district court or BAP orders otherwise, a motion, a cross-motion, and any response will be submitted without oral argument. |
| (d) FAILURE TO FILE A MOTION WITH A NOTICE OF APPEAL. If an appellant timely files a notice of appeal under this rule but does not include a motion for leave, the district court or BAP may order the appellant to file a motion for leave, or treat the notice of appeal as a motion for leave and either | **(d) Failure to File a Motion for Leave to Appeal.** If an appellant files a timely notice of appeal under this rule but fails to include a motion for leave to appeal, the district court or BAP may:<br><br>(1) treat the notice of appeal as a motion for leave to appeal and grant or deny it; or |

| ORIGINAL | REVISION |
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| grant or deny it. If the court orders that a motion for leave be filed, the appellant must do so within 14 days after the order is entered, unless the order provides otherwise. | (2) order the appellant to file a motion for leave to appeal within 14 days after the order has been entered—unless the order provides otherwise. |
| (e) DIRECT APPEAL TO A COURT OF APPEALS. If leave to appeal an interlocutory order or decree is required under 28 U.S.C. § 158(a)(3), an authorization of a direct appeal by the court of appeals under 28 U.S.C. § 158(d)(2) satisfies the requirement. | **(e) Direct Appeal to a Court of Appeals.** If leave to appeal an interlocutory order or decree is required under 28 U.S.C. § 158(a)(3), an authorization by a court of appeals for a direct appeal under 28 U.S.C. § 158(d)(2) satisfies the requirement. |

**Committee Note**

The language of Rule 8004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In the title to Rule 8004, the words "Appeal by Leave" were changed to "Leave to Appeal" at the request of the style consultants.

• In Rule 8004(b)(2) the words "has been served" were changed to "is served" and the word "clerk" after "district" was deleted at the request of the style consultants.

• In Rule 8004(c)(1) the words "to the BAP clerk" were deleted from after "leave to appeal" and inserted instead after "promptly send" at the request of the style consultants.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC points out that 28 U.S.C. § 158(a) confers on a district court jurisdiction over interlocutory orders and decrees both under § 158(a)(3) (which is referred to in 8004(a)(1)) which gives the district court jurisdiction over "other interlocutory orders and decrees" and under the hanging paragraph that follows § 158(a)(3) that gives the district court jurisdiction over interlocutory orders and decrees of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under § 157 of the Code. Both require leave of court. The significance of the hanging paragraph is not certain, but the language of 8004(a)(1) covers only interlocutory orders and decrees described in § 158(a)(3) and not those described in the hanging paragraph. The NBC suggests replacing the reference to § 158(a)(3) with a reference to § 158(a) (thereby

picking up the hanging paragraph) and explaining the reasons for the change in a committee note.

> ***Response***: This would be a substantive change. No change was made in response to this suggestion.

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| **Rule 8005. Election to Have an Appeal Heard by the District Court Instead of the BAP** | **Rule 8005. Election to Have an Appeal Heard in ~~a~~ the District Court Instead of the BAP** |
| (a) FILING OF A STATEMENT OF ELECTION. To elect to have an appeal heard by the district court, a party must:<br><br>(1) file a statement of election that conforms substantially to the appropriate Official Form; and<br><br>(2) do so within the time prescribed by 28 U.S.C. § 158(c)(1). | **(a) Filing a Statement of Election.** To elect to have the district court hear an appeal ~~heard in a district court~~, a party must file a statement of election within the time prescribed by 28 U.S.C. § 158(c)(1). The statement must substantially conform ~~substantially~~ to Form 417A. |
| (b) TRANSMITTING THE DOCUMENTS RELATED TO THE APPEAL. Upon receiving an appellant's timely statement of election, the bankruptcy clerk must transmit to the district clerk all documents related to the appeal. Upon receiving a timely statement of election by a party other than the appellant, the BAP clerk must transmit to the district clerk all documents related to the appeal and notify the bankruptcy clerk of the transmission. | **(b) Sending Documents Relating to the Appeal.** Upon receiving an appellant's timely statement of election, the bankruptcy clerk must send all documents related to the appeal to the district clerk. A BAP clerk who receives a timely statement of election from a party other than the appellant must:<br><br>(1) send those documents to the district clerk; and<br><br>(2) notify the bankruptcy clerk that they have been sent. |
| (c) DETERMINING THE VALIDITY OF AN ELECTION. A party seeking a determination of the validity of an election must file a motion in the court where the appeal is then pending. The motion must be filed within 14 days after the statement of election is filed. | **(c) Determining the Validity of an Election.** Within 14 days after the statement of election has been filed, a party seeking to determine the election's validity must file a motion in the court where the appeal is pending. |
| (d) MOTION FOR LEAVE WITHOUT A NOTICE OF APPEAL—EFFECT ON THE TIMING OF AN ELECTION. If an appellant moves for leave to appeal under Rule 8004 but fails to file a separate notice of appeal with the | **(d) Effect of Filing a Motion for Leave to Appeal Without Filing a Notice of Appeal.** If an appellant moves for leave to appeal under Rule 8004 but fails to file a notice of appeal with the motion, it must be treated as a notice of appeal in determining |

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| motion, the motion must be treated as a notice of appeal for purposes of determining the timeliness of a statement of election. | whether the statement of election has been timely filed. |

**Committee Note**

The language of Rule 8005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The word "a" in the heading to Rule 8005 was changed to "the".

• In Rule 8005(a) the phrase "to have an appeal heard in a district court" was changed to "to have the district court hear an appeal". In the same section, the word "substantially" was moved from after "conform" to before "conform".

**Summary of Public Comment**

• **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC finds the word "it" in 8005(d) to be ambiguous and suggests using "the motion" as in the current rule.

> ***Response*:** There is no ambiguity. The words "the motion" is the immediate antecedent to the word "it". No change was made in response to this comment.

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| **Rule 8006. Certifying a Direct Appeal to the Court of Appeals** | **Rule 8006. Certifying a Direct Appeal to a Court of Appeals** |
| (a) EFFECTIVE DATE OF A CERTIFICATION. A certification of a judgment, order, or decree of a bankruptcy court for direct review in a court of appeals under 28 U.S.C. § 158(d)(2) is effective when:<br>(1) the certification has been filed;<br>(2) a timely appeal has been taken under Rule 8003 or 8004; and<br>(3) the notice of appeal has become effective under Rule 8002. | **(a) Effective Date of a Certification.** A certification of a bankruptcy court's judgment, order, or decree to a court of appeals for direct review under 28 U.S.C. § 158(d)(2) becomes effective when:<br>(1) it is filed;<br>(2) a timely appeal is taken under Rule 8003 or Rule 8004; and<br>(3) the notice of appeal becomes effective under Rule 8002. |
| (b) FILING THE CERTIFICATION. The certification must be filed with the clerk of the court where the matter is pending. For purposes of this rule, a matter remains pending in the bankruptcy court for 30 days after the effective date under Rule 8002 of the first notice of appeal from the judgment, order, or decree for which direct review is sought. A matter is pending in the district court or BAP thereafter. | **(b) Filing the Certification.** The certification must be filed with the clerk of the court where the matter is pending. For purposes of this rule, a matter remains pending in the bankruptcy court for 30 days after the first notice of appeal concerning that matter becomes effective under Rule 8002. After that time, the matter is pending in the district court or BAP. |
| (c) JOINT CERTIFICATION BY ALL APPELLANTS AND APPELLEES.<br>(1) *How Accomplished.* A joint certification by all the appellants and appellees under 28 U.S.C. § 158(d)(2)(A) must be made by using the appropriate Official Form. The parties may supplement the certification with a short statement of the basis for the certification, which may include the information listed in subdivision (f)(2). | **(c) Joint Certification by All Appellants and Appellees.**<br>(1) ***In General.*** A joint certification by all appellants and appellees under 28 U.S.C. § 158(d)(2)(A) must be made using Form 424. The parties may supplement the certification with a short statement about its basis. The statement may include the information required by (f)(2). |

| ORIGINAL | REVISION |
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| (2) *Supplemental Statement by the Court.* Within 14 days after the parties' certification, the bankruptcy court or the court in which the matter is then pending may file a short supplemental statement about the merits of the certification. | (2) ***Supplemental Statement by the Court.*** Within 14 days after the parties file the certification, the bankruptcy court—or the court where the matter is pending—may file a short supplemental statement about the certification's merits. |
| (d) THE COURT THAT MAY MAKE THE CERTIFICATION. Only the court where the matter is pending, as provided in subdivision (b), may certify a direct review on request of parties or on its own motion. | **(d) Court's Authority to Certify a Direct Appeal.** ~~On a party's request or on its own,~~ Only the court where the matter is pending under (b) may certify a direct appeal to a court of appeals. The court may do so on a party's request or on its own. |
| (e) CERTIFICATION ON THE COURT'S OWN MOTION.<br><br>(1) *How Accomplished.* A certification on the court's own motion must be set forth in a separate document. The clerk of the certifying court must serve it on the parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1). The certification must be accompanied by an opinion or memorandum that contains the information required by subdivision (f)(2)(A)–(D).<br><br>(2) *Supplemental Statement by a Party.* Within 14 days after the court's certification, a party may file with the clerk of the certifying court a short supplemental statement regarding the merits of certification. | **(e) Certification by the Court Acting on Its Own.**<br><br>(1) ***Separate Document Required; Service; Content.*** A certification by a court acting on its own must be set forth in a separate document. The clerk of the certifying court must serve the document on the parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1). It must be accompanied by an opinion or memorandum that contains the information required by (f)(2)(A)–(D).<br><br>(2) ***Supplemental Statement by a Party.*** Within 14 days after the court's certification, a party may file with the clerk of the certifying court a short supplemental statement about the merits of certification. |

| ORIGINAL | REVISION |
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| (f) CERTIFICATION BY THE COURT ON REQUEST.<br><br>(1) *How Requested.* A request by a party for certification that a circumstance specified in 28 U.S.C. §158(d)(2)(A)(i)–(iii) applies—or a request by a majority of the appellants and a majority of the appellees—must be filed with the clerk of the court where the matter is pending within 60 days after the entry of the judgment, order, or decree.<br><br>(2) *Service and Contents.* The request must be served on all parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1), and it must include the following:<br><br>(A) the facts necessary to understand the question presented;<br><br>(B) the question itself;<br><br>(C) the relief sought;<br><br>(D) the reasons why the direct appeal should be allowed, including which circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)–(iii) applies; and<br><br>(E) a copy of the judgment, order, or decree and any related opinion or memorandum.<br><br>(3) *Time to File a Response or a Cross-Request.* A party may file a response to the request within 14 days after the request is served, or such other time as the court where the matter is pending allows. A party may file a cross- request for certification within 14 days after the request is served, or within 60 days after the entry of the judgment, order, or decree, whichever occurs first. | **(f) Certification by the Court on Request.**<br><br>(1) ***How Requested.*** A party's request for certification under 28 U.S.C. § 158(d)(2)(A)—or a request by a majority of the appellants and of the appellees—must be filed with the clerk of the court where the matter is pending. The request must be filed within 60 days after the judgment, order, or decree is entered.<br><br>(2) ***Service; Content.*** The request must be served on all parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1). The request must include:<br><br>(A) the facts needed to understand the question presented;<br><br>(B) the question itself;<br><br>(C) the relief sought;<br><br>(D) the reasons why a direct appeal should be allowed, including which circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)–(iii) applies; and<br><br>(E) the judgment, order, or decree, and any related opinion or memorandum.<br><br>(3) ***Time to File a Response or a Cross-Request.***<br><br>(A) *Response.* A party may file a response within 14 days after the request has been served, or within such other time as the court where the matter is pending allows.<br><br>(B) *Cross-Request.* A party may file a cross-request for certification within 14 days after the request has been served or within 60 days after the judgment, order, or decree has been entered—whichever occurs first. |

| ORIGINAL | REVISION |
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| (4) *Oral Argument Not Required.* The request, cross-request, and any response are submitted without oral argument unless the court where the matter is pending orders otherwise.<br><br>(5) *Form and Service of the Certification.* If the court certifies a direct appeal in response to the request, it must do so in a separate document. The certification must be served on the parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1). | (4) ***Oral Argument Not Required.*** Unless the court where the matter is pending orders otherwise, a request, a cross-request, and any response will be submitted without oral argument.<br><br>(5) ***Form of a Certification; Service.*** The court that certifies a direct appeal in response to a request must do so in a separate document served on all parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1). |
| (g) PROCEEDING IN THE COURT OF APPEALS FOLLOWING A CERTIFICATION. Within 30 days after the date the certification becomes effective under subdivision (a), a request for permission to take a direct appeal to the court of appeals must be filed with the circuit clerk in accordance with F.R.App.P. 6(c). | **(g) Request for Leave to Take a Direct Appeal to a Court of Appeals After Certification.** Within 30 days after the certification has become effective under (a), a request for leave to take a direct appeal to a court of appeals must be filed with the circuit clerk in accordance with Fed. R. App. P. 6(c). |

**Committee Note**

The language of Rule 8006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8006(d) the words "On a party's request or on its own," were deleted from the beginning of the text, the word "Only" was inserted at the beginning of the text, and a new sentence was added at the end reading "The court may do so on a party's request or on its own."

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In 8006(d), the NBC suggests that the word "only" must be included in the restyled rule to avoid changing the meaning.

***Response***: Suggestion accepted and section rewritten accordingly.

In 8006(g) the NBC believes that reference to Fed. R. App. P. 6(c) is inappropriate because that rule has no provision or reference to leave to appeal. Instead, they suggest that the Rule should reference 28 U.SC. § 158(d)(2).

> ***Response***: FRAP 6 is the appellate rule (and the only appellate rule) that deals with bankruptcy appeals. It currently does not use the term "leave to appeal" (although proposed amendments may change its terminology) but the paragraph on "direct appeal by permission" (FRAP 6(c)) is indeed the applicable provision. No change was made in response to this comment.

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| **Rule 8007. Stay Pending Appeal; Bonds; Suspension of Proceedings** | **Rule 8007. Stay Pending Appeal; Bond; Suspending Proceedings** |
| (a) INITIAL MOTION IN THE BANKRUPTCY COURT.<br><br>(1) *In General.* Ordinarily, a party must move first in the bankruptcy court for the following relief:<br><br>(A) a stay of a judgment, order, or decree of the bankruptcy court pending appeal;<br><br>(B) the approval of a bond or other security provided to obtain a stay of judgment;<br><br>(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or<br><br>(D) the suspension or continuation of proceedings in a case or other relief permitted by subdivision (e).<br><br>(2) *Time to File.* The motion may be made either before or after the notice of appeal is filed. | **(a) Initial Motion in the Bankruptcy Court.**<br><br>(1) ***In General.*** Ordinarily, a party must move first in the bankruptcy court for the following relief:<br><br>(A) a stay of the bankruptcy court's judgment, order, or decree pending appeal;<br><br>(B) the approval of a bond or other security provided to obtain a stay of judgment;<br><br>(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or<br><br>(D) an order suspending or continuing proceedings or granting other relief permitted by (e).<br><br>(2) ***Time to File.*** The motion may be filed either before or after the notice of appeal is filed. |
| (b) MOTION IN THE DISTRICT COURT, THE BAP, OR THE COURT OF APPEALS ON DIRECT APPEAL.<br><br>(1) *Request for Relief.* A motion for the relief specified in subdivision (a)(1)—or to vacate or modify a bankruptcy court's order granting such relief—may be made in the court where | **(b) Motion in the District Court, BAP, or Court of Appeals on Direct Appeal.**<br><br>(1) ***In General.*** A motion for the relief specified in (a)(1)—or to vacate or modify a bankruptcy court's order granting such relief—may be filed in the court where the appeal is pending. |

| ORIGINAL | REVISION |
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| the appeal is pending.<br><br>(2) *Showing or Statement Required.* The motion must:<br><br>(A) show that moving first in the bankruptcy court would be impracticable; or<br><br>(B) if a motion was made in the bankruptcy court, either state that the court has not yet ruled on the motion, or state that the court has ruled and set out any reasons given for the ruling.<br><br>(3) *Additional Content.* The motion must also include:<br><br>(A) the reasons for granting the relief requested and the facts relied upon;<br><br>(B) affidavits or other sworn statements supporting facts subject to dispute; and<br><br>(C) relevant parts of the record.<br><br>(4) *Serving Notice.* The movant must give reasonable notice of the motion to all parties. | (2) ***Required Showing.*** The motion must:<br><br>(A) show that moving first in the bankruptcy court would be impracticable; or<br><br>(B) if a motion has already been made in the bankruptcy court, state whether the court has ruled on it, and if so, state any reasons given for the ruling.<br><br>(3) ***Additional Requirements.*** The motion must also include:<br><br>(A) the reasons for granting the relief requested and the facts relied on;<br><br>(B) affidavits or other sworn statements supporting facts subject to dispute; and<br><br>(C) relevant parts of the record.<br><br>(4) ***Serving Notice.*** The movant must give reasonable notice of the motion to all parties. |
| (c) FILING A BOND OR OTHER SECURITY. The district court, BAP, or court of appeals may condition relief on filing a bond or other security with the bankruptcy court. | **(c)** ***Filing a Bond or Other Security as a Condition of Relief.*** The district court, BAP, or court of appeals may condition relief on filing a bond or other security with the bankruptcy court. |

| ORIGINAL | REVISION |
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| (d) BOND OR OTHER SECURITY FOR A TRUSTEE OR THE UNITED STATES. The court may require a trustee to file a bond or other security when the trustee appeals. A bond or other security is not required when an appeal is taken by the United States, its officer, or its agency or by direction of any department of the federal government. | **(d)** ***Bond or Other Security for a Trustee; Not for the United States.*** The court may require a trustee who appeals to file a bond or other security. No bond or security is required when:<br>(1) the United States, its officer, or its agency appeals; or<br>(2) an appeal is taken by direction of any federal governmental department. |
| (e) CONTINUATION OF PROCEEDINGS IN THE BANKRUPTCY COURT. Despite Rule 7062 and subject to the authority of the district court, BAP, or court of appeals, the bankruptcy court may:<br>(1) suspend or order the continuation of other proceedings in the case; or<br>(2) issue any other appropriate orders during the pendency of an appeal to protect the rights of all parties in interest. | **(e)** ***Continuing Proceedings in the Bankruptcy Court.*** Despite Rule 7062—but subject to the authority of the district court, BAP, or court of appeals—while the appeal is pending, the bankruptcy court may:<br>(1) suspend or order the continuation of other proceedings in the case, or<br>(2) issue any appropriate order to protect the rights of all parties in interest. |

**Committee Note**

The language of Rule 8007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

NBC pointed out what appeared to be a typographical error in 8007(c) but was in fact a formatting error.

***Response*:** Error corrected.

| ORIGINAL | REVISION |
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| **Rule 8008. Indicative Rulings** | **Rule 8008. Indicative Rulings** |
| (a) RELIEF PENDING APPEAL. If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the bankruptcy court may:<br>(1) defer considering the motion;<br>(2) deny the motion; or<br>(3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue. | **(a)** ***Motion for Relief Filed When an Appeal Is Pending; Bankruptcy Court's Options.*** If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because an appeal has been docketed and is pending, the bankruptcy court may:<br>(1) defer considering the motion;<br>(2) deny the motion;<br>(3) state that it would grant the motion if the court where the appeal is pending remands for that purpose; or<br>(4) state that the motion raises a substantial issue. |
| (b) NOTICE TO THE COURT WHERE THE APPEAL IS PENDING. The movant must promptly notify the clerk of the court where the appeal is pending if the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue. | **(b)** ***Notice to the Court Where the Appeal Is Pending.*** If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, t~~T~~he movant must promptly notify the clerk of the court where the appeal is pending ~~if the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue~~. |
| (c) REMAND AFTER AN INDICATIVE RULING. If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the district court or BAP may remand for further proceedings, but it retains jurisdiction unless it expressly dismisses the appeal. If the district court or BAP remands but retains jurisdiction, the parties must promptly notify the clerk of that court when the bankruptcy court has decided the motion on remand. | **(c)** ***Remand After an Indicative Ruling.*** If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the district court or BAP may remand for further proceedings~~,~~ but ~~it~~ retains jurisdiction unless it expressly dismisses the appeal. If the district court or BAP remands but retains jurisdiction, the parties must promptly notify the clerk of that court when the bankruptcy court has decided the motion on remand. |

**Committee Note**

The language of Rule 8008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8008(b) the phrase "if the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue" was moved from the end of the paragraph to the beginning at the request of the style consultants.

• In Rule 8008(c) the comma after the word "proceedings" was deleted and the word "it" was deleted.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In 8008(a) the NBC questions whether paragraph (4) should include language requiring the court to state the action it would take on the motion if it had authority to decide it. They suggest adding "and state whether the court would grant or deny the motion if the court had authority to do so."

> ***Response***: The only paragraph in 8008(a) that provides an indication of how the court would rule is paragraph (3), and the second part of that paragraph in the original rule is set apart by a comma and is clearly an independent clause. That is reemphasized in 8008(b) where there are two alternatives (the court states that it would grant the motion or the court states that the motion raises a substantial issue). In the second instance, the court does not indicate how it would rule. This would be a substantive change. No changes was made in response to this suggestion.

The NBC finds the "but it" phrase in 8008(c) to be ambiguous, potentially referring to the bankruptcy court. The suggest replacing it with "but the district court or BAP."

> ***Response***: The sentence has been rewritten to remove the word "it".

| ORIGINAL | REVISION |
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| **Rule 8009. Record on Appeal; Sealed Documents** | **Rule 8009. Record on Appeal; Sealed Documents** |
| (a) DESIGNATING THE RECORD ON APPEAL; STATEMENT OF THE ISSUES.<br><br>(1) *Appellant.*<br><br>(A) The appellant must file with the bankruptcy clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented.<br><br>(B) The appellant must file and serve the designation and statement within 14 days after:<br><br>(i) the appellant's notice of appeal as of right becomes effective under Rule 8002; or<br><br>(ii) an order granting leave to appeal is entered. A designation and statement served prematurely must be treated as served on the first day on which filing is timely.<br><br>(2) *Appellee and Cross- Appellant.* Within 14 days after being served, the appellee may file with the bankruptcy clerk and serve on the appellant a designation of additional items to be included in the record. An appellee who files a cross-appeal must file and serve a designation of additional items to be included in the record and a statement of the issues to be presented on the cross-appeal.<br><br>(3) *Cross-Appellee.* Within 14 days after service of the cross-appellant's designation and statement, a cross-appellee may file with the | **(a) Designating the Record on Appeal; Statement of the Issues; Content of the Record.**<br><br>(1) ***Appellant's Designation and Statement of the Issues.*** The appellant must:<br><br>(A) file with the bankruptcy clerk a designation of the items to be included in the record on appeal and a statement of the issues to be presented; and<br><br>(B) file and serve the designation and statement on the appellee within 14 days after:<br><br>• the notice of appeal as of right has become effective under Rule 8002; or<br><br>• an order granting leave to appeal has been entered.<br><br>Premature service is treated as service on the first day on which filing is timely.<br><br>(2) ***Appellee's and Cross-Appellant's Designation and Statement of the Issues.***<br><br>(A) *Appellee.* Within 14 days after being served, the appellee may file with the bankruptcy clerk and serve on the appellant a designation of additional items to be included in the record.<br><br>(B) *Cross-Appellant.* An appellee who files a cross-appeal must file and serve a designation of additional items to be included in the record and a statement of the issues to be presented on the cross-appeal. |

| ORIGINAL | REVISION |
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| bankruptcy clerk and serve on the cross-appellant a designation of additional items to be included in the record.<br><br>(4) *Record on Appeal.* The record on appeal must include the following:<br><br>• docket entries kept by the bankruptcy clerk;<br>• items designated by the parties;<br>• the notice of appeal;<br>• the judgment, order, or decree being appealed;<br>• any order granting leave to appeal;<br>• any certification required for a direct appeal to the court of appeals;<br>• any opinion, findings of fact, and conclusions of law relating to the issues on appeal, including transcripts of all oral rulings;<br>• any transcript ordered under subdivision (b);<br>• any statement required by subdivision (c); and<br>• any additional items from the record that the court where the appeal is pending orders.<br><br>(5) *Copies for the Bankruptcy Clerk.* If paper copies are needed, a party filing a designation of items must provide a copy of any of those items that the bankruptcy clerk requests. If the party fails to do so, the bankruptcy clerk must prepare the copy at the party's expense. | (3) ***Cross-Appellee's Designation.*** Within 14 days after the cross-appellant's designation and statement have been served, the cross-appellee may file with the bankruptcy clerk and serve on the cross-appellant a designation of additional items to be included in the record.<br><br>(4) ***Record on Appeal.*** The record on appeal must include:<br><br>• the docket entries kept by the bankruptcy clerk;<br>• items designated by the parties;<br>• the notice of appeal;<br>• the judgment, order, or decree being appealed;<br>• any order granting leave to appeal;<br>• any certification required for a direct appeal to the court of appeals;<br>• any opinion, findings of fact and conclusions of law relating to the issues on appeal, ~~and~~ including transcripts of all oral rulings;<br>• any transcript ordered under (b);<br>• any statement required by (c); and<br>• any other items from the record that the court where the appeal ~~orders~~is pending orders to be included.<br><br>(5) ***Copies for the Bankruptcy Clerk.*** If paper copies are needed and the bankruptcy clerk requests copies of designated items, the party filing the designation must provide them. If the party fails to do so, the bankruptcy clerk must prepare them at that party's expense. |

| ORIGINAL | REVISION |
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| (b) TRANSCRIPT OF PROCEEDINGS.<br><br>(1) *Appellant's Duty to Order.* Within the time period prescribed by subdivision (a)(1), the appellant must:<br><br>(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or<br><br>(B) file with the bankruptcy clerk a certificate stating that the appellant is not ordering a transcript.<br><br>(2) *Cross-Appellant's Duty to Order.* Within 14 days after the appellant files a copy of the transcript order or a certificate of not ordering a transcript, the appellee as cross-appellant must:<br><br>(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such additional parts of the proceedings as the cross-appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or<br><br>(B) file with the bankruptcy clerk a certificate stating that the cross-appellant is not ordering a transcript. | **(b) Transcript of Proceedings.**<br><br>(1) ***Appellant's Duty to Order.*** Within the period prescribed by (a)(1), the appellant must:<br><br>(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or<br><br>(B) file with the bankruptcy clerk a certificate stating that the appellant is not ordering a transcript.<br><br>(2) ***Appellee's Duty to Order as a Cross-Appellant.*** Within 14 days after the appellant has filed a copy of the transcript order—or a certificate stating that the appellant is not ordering a transcript—the appellee as cross-appellant must:<br><br>(A) order in writing from the reporter~~, as defined in Rule 8010(a)(1),~~ a transcript of such additional parts of the proceedings as the cross-appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or<br><br>(B) file with the bankruptcy clerk a certificate stating that the cross-appellant is not ordering a transcript. |

| ORIGINAL | REVISION |
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| (3) *Appellee's or Cross- Appellee's Right to Order.* Within 14 days after the appellant or cross- appellant files a copy of a transcript order or certificate of not ordering a transcript, the appellee or cross-appellee may order in writing from the reporter a transcript of such additional parts of the proceedings as the appellee or cross- appellee considers necessary for the appeal. A copy of the order must be filed with the bankruptcy clerk.<br><br>(4) *Payment.* At the time of ordering, a party must make satisfactory arrangements with the reporter for paying the cost of the transcript.<br><br>(5) *Unsupported Finding or Conclusion.* If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all relevant testimony and copies of all relevant exhibits. | (3) ***Appellee's or Cross-Appellee's Right to Order.*** Within 14 days after the appellant or cross-appellant has filed a copy of a transcript order—or a certificate stating that the appellant or cross-appellant is not ordering a transcript—the appellee or cross-appellee:<br><br>~~(A)~~ (A) may order in writing from the reporter ~~(as defined in Rule 8010(a)(1))~~ a transcript of any additional parts of the proceeding that the appellee or cross-appellee considers necessary for the appeal; and<br><br>(B) must file a copy of the order with the bankruptcy clerk.<br><br>(4) ***Payment.*** At the time of ordering, a party must make satisfactory arrangements with the reporter to pay for the transcript.<br><br>(5) ***Unsupported Finding or Conclusion.*** If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all relevant testimony and a copy of all relevant exhibits. |
| (c) STATEMENT OF THE EVIDENCE WHEN A TRANSCRIPT IS UNAVAILABLE. If a transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement | **(c) When a Transcript Is Unavailable.**<br><br>(1) ***Statement of the Evidence.*** If a transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's |

| ORIGINAL | REVISION |
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| must be filed within the time prescribed by subdivision (a)(1) and served on the appellee, who may serve objections or proposed amendments within 14 days after being served. The statement and any objections or proposed amendments must then be submitted to the bankruptcy court for settlement and approval. As settled and approved, the statement must be included by the bankruptcy clerk in the record on appeal. | recollection. The statement must be filed within the time prescribed by (a)(1) and served on the appellee.<br>(2) ***Appellee's Response.*** The appellee may serve objections or proposed amendments within 14 days after being served.<br>(3) ***Court Approval.*** The statement and any objections or proposed amendments must then be submitted to the bankruptcy court for settlement and approval. As settled and approved, the statement must be included by the bankruptcy clerk in the record on appeal. |
| (d) AGREED STATEMENT AS THE RECORD ON APPEAL. Instead of the record on appeal as defined in subdivision (a), the parties may prepare, sign, and submit to the bankruptcy court a statement of the case showing how the issues presented by the appeal arose and were decided in the bankruptcy court. The statement must set forth only those facts alleged and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it—together with any additions that the bankruptcy court may consider necessary to a full presentation of the issues on appeal—must be approved by the bankruptcy court and must then be certified to the court where the appeal is pending as the record on appeal. The bankruptcy clerk must then transmit it to the clerk of that court within the time provided by Rule 8010. A copy of the agreed statement may be filed in place of the appendix required by Rule 8018(b) or, in the case of a direct appeal to the court of appeals, by F.R.App.P. 30. | **(d) Agreed Statement as the Record on Appeal.**<br>(1) ***Agreed Statement.*** Instead of the record on appeal as defined in (a), the parties may prepare, sign, and submit to the bankruptcy court a statement of the case showing how the issues presented by the appeal arose and were decided in the bankruptcy court.<br>(2) ***Content.*** The statement must set forth only those facts alleged and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it—together with any additions that the bankruptcy court ~~may~~ considers necessary to a full presentation of the issues on appeal—must be:<br>(A) approved by the bankruptcy court; and<br>(B) certified to the court where the appeal is pending as the record on appeal.<br>(3) ***Time to Send the Agreed Statement to the Appellate Court.*** The bankruptcy clerk must then send the |

| ORIGINAL | REVISION |
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| | agreed statement to the clerk of the court where the appeal is pending within the time provided by Rule 8010. A copy may be filed in place of the appendix required by Rule 8018(b) or, in the case of a direct appeal to the court of appeals, by Fed. R. App. P. 30. |
| (e) CORRECTING OR MODIFYING THE RECORD.<br><br>(1) *Submitting to the Bankruptcy Court.* If any difference arises about whether the record accurately discloses what occurred in the bankruptcy court, the difference must be submitted to and settled by the bankruptcy court and the record conformed accordingly. If an item has been improperly designated as part of the record on appeal, a party may move to strike that item.<br><br>(2) *Correcting in Other Ways.* If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected, and a supplemental record may be certified and transmitted:<br><br>(A) on stipulation of the parties;<br><br>(B) by the bankruptcy court before or after the record has been forwarded; or<br><br>(C) by the court where the appeal is pending.<br><br>(3) *Remaining Questions.* All other questions as to the form and content of the record must be presented to the court where the appeal is pending. | **(e) Correcting or Modifying the Record.**<br><br>(1) ***Differences About Accuracy~~; and Improper Designations.~~*** If any difference arises about whether the record accurately discloses what occurred in the bankruptcy court, the difference must be submitted to and settled by the bankruptcy court and the record conformed accordingly. If an item has been improperly designated as part of the record on appeal, a party may move to strike ~~it~~that item.<br><br>(2) ***Omissions and Misstatements.*** If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected, and a supplemental record may be certified and sent:<br><br>(A) on stipulation of the parties;<br><br>(B) by the bankruptcy court before or after the record has been sent; or<br><br>(C) by the court where the appeal is pending.<br><br>(3) ***Remaining Questions.*** All other questions ~~as to~~about the form and content of the record must be presented to the court where the appeal is pending. |

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| (f) SEALED DOCUMENTS. A document placed under seal by the bankruptcy court may be designated as part of the record on appeal. In doing so, a party must identify it without revealing confidential or secret information, but the bankruptcy clerk must not transmit it to the clerk of the court where the appeal is pending as part of the record. Instead, a party must file a motion with the court where the appeal is pending to accept the document under seal. If the motion is granted, the movant must notify the bankruptcy court of the ruling, and the bankruptcy clerk must promptly transmit the sealed document to the clerk of the court where the appeal is pending. | **(f) Sealed Documents.**<br>(1) ***In General.*** A document placed under seal by the bankruptcy court may be designated as a part of the record on appeal. But a document so designated:<br>(A) must be identified without revealing confidential or secret information; and<br>(B) may be sent only as (2) prescribes.<br>(2) ***When to Send a Sealed Document.*** To have a sealed document sent as part of the record, a party must file in the court where the appeal is pending a motion to accept the document under seal. If the motion is granted, the movant must ~~so~~ notify the bankruptcy court, and the bankruptcy clerk must promptly send the sealed document to the clerk of the court where the appeal is pending. |
| (g) OTHER NECESSARY ACTIONS. All parties to an appeal must take any other action necessary to enable the bankruptcy clerk to assemble and transmit the record. | **(g) Duty to Assist the Bankruptcy Clerk.** All parties to an appeal must take any other action needed to enable the bankruptcy clerk to assemble and send the record. |

**Committee Note**

The language of Rule 8009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The titles to Rule 8009(a)(1) and (a)(2) have been modified to add the phrase "and Statement of the Issues".

• The bullet pointes in Rule 8009(a)(4) have been modified. In the first one, the phrase "kept by the bankruptcy clerk" has been added the end. What used to be the seventh bullet point has been combined with the sixth as in the existing rule. In the final bullet point the language "where the appeal orders is pending" has been replaced with "where the appeal is pending orders to be included."

• In Rule 8009(b)(2)(A) and (b)(3)(A), the phrase ", as defined in Rule 8010(a)(1)," has been deleted after the word "reporter".

• In Rule 8009(d)(2) the words "may consider" were changed to "considers."

• In Rule 8009(e)(1), the word "and" was deleted from the heading, and the word "it" was changed to "that item."

• In Rule 8009(e)(3), the words "as to" were changed to "about."

• In Rule 8009(f)(2) the word "so" was deleted.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests modifications to the titles to 8009(a)(1) and (a)(2) to add the concept of the Statement of Issues.

***Response***: Suggestion accepted.

In the first bullet point of 8009(a)(4), the NBC suggests retaining the words "kept by the bankruptcy clerk" as in the original rule because there could have been prior appeals whose dockets should not be covered by this bullet point.

***Response***: Suggestion accepted.

The NBC suggests that the seventh bullet point, which in the original rule was part of the sixth, is now overbroad because there could be oral rulings that have nothing to do with the appeal. They suggest adding language that limits those oral rulings to those related to resolution of the issues in the appeal, or retaining the current language.

***Response***: The former seventh bullet point has been included in the sixth, as in the original rule.

The NBC finds the final bullet point confusing and suggests rewriting it, using the term "reviewing court" rather than "court where the appeal is pending."

***Response***: Language has been added to make it clear that the material is ordered to be included by the court where the appeal is pending, but the term "reviewing court" is not one used in the Bankruptcy Rules.

In Rule 8009(b)(3)(A) the NBC suggests that the phrase "as defined in Rule 8010(a)(1)" should be set off by commas rather than parens, and that consideration should be given to a means of avoiding that phrase in the three different places it appears in Rule 8009(b).

***Response***: In the original rule, the third reference in Rule 8009(b) to "the

reporter" in 8009(b)(3) did not contain any cross-reference to the definition. Because the cross-reference is in the same rule, Rule 8009(b)(1)(A), we see no reason to retain the cross-reference in (b)(2)(A) or (b)(3)(A). They have been deleted.

NBC finds the use of the word "it" in Rule 8009(e)(1) to be ambiguous and states that it could be interpreted to apply to the records as a whole. They suggest using "that item" as in the existing rule.

***Response:*** Suggestion accepted.

- **Jeffrey Cozad (BK02022-0002-0010)**

Mr. Cozad suggests that the words "submitted to" in rule 8009(c)(3) be changed to "filed in", the words "submit to" in Rule 8009(d)(1) be changed to "file in" and the words "submitted to" in Rule 8009(e)(1) be changed to "filed in."

***Response***: Rule 8009(c)(3) is modeled on Fed. R. App. P. 10(c), which uses the words "submitted to". Rule 8009(d)(1) is modeled on Fed. R. App. P. 10(d), which uses the words "submit to". Rule 8009(e)(1) is modeled on Fed. R. App. P. 10(e)(1), which uses the words "submitted to". Using the same terminology is appropriate. No change was made in response to this comment.

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| **Rule 8010. Completing and Transmitting the Record** | **Rule 8010. Transcribing the Proceedings; Filing the Transcript; Sending the Record** |
| (a) REPORTER'S DUTIES.<br><br>(1) *Proceedings Recorded Without a Reporter Present.* If proceedings were recorded without a reporter being present, the person or service selected under bankruptcy court procedures to transcribe the recording is the reporter for purposes of this rule.<br><br>(2) *Preparing and Filing the Transcript.* The reporter must prepare and file a transcript as follows:<br><br>(A) Upon receiving an order for a transcript in accordance with Rule 8009(b), the reporter must file in the bankruptcy court an acknowledgment of the request that shows when it was received, and when the reporter expects to have the transcript completed.<br><br>(B) After completing the transcript, the reporter must file it with the bankruptcy clerk, who will notify the district, BAP, or circuit clerk of its filing.<br><br>(C) If the transcript cannot be completed within 30 days after receiving the order, the reporter must request an extension of time from the bankruptcy clerk. The clerk must enter on the docket and notify the parties whether the extension is granted.<br><br>(D) If the reporter does not file the transcript on time, the bankruptcy clerk must notify the bankruptcy judge. | **(a) Reporter's Duties.**<br><br>(1) ***Proceedings Recorded Without a Court Reporter Present.*** If proceedings are recorded without a reporter present, the person or service selected under bankruptcy court procedures to transcribe the recording is the reporter for purposes of this rule.<br><br>(2) ***Preparing and Filing the Transcript.*** The reporter must prepare and file a transcript as follows:<br><br>(A) *Initial Steps.* Upon receiving a transcript order under Rule 8009(b), the reporter must file in the bankruptcy court an acknowledgment showing when the order was received and when the reporter expects to have the transcript completed.<br><br>(B) *Filing the Transcript.* After completing the transcript, the reporter must file it with the bankruptcy clerk, who will notify the district, BAP, or circuit clerk of its filing.<br><br>(C) *Extending the Time to Complete a Transcript.* If the transcript cannot be completed within 30 days after the order has been received, the reporter must request an extension from the bankruptcy clerk. The clerk must enter on the docket and notify the parties whether the extension is granted.<br><br>(D) *Failure to File on Time.* If the reporter fails to file the transcript on time, the bankruptcy clerk must notify the bankruptcy judge. |

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| (b) CLERK'S DUTIES.<br><br>(1) *Transmitting the Record—In General.* Subject to Rule 8009(f) and subdivision (b)(5) of this rule, when the record is complete, the bankruptcy clerk must transmit to the clerk of the court where the appeal is pending either the record or a notice that the record is available electronically.<br><br>(2) *Multiple Appeals.* If there are multiple appeals from a judgment, order, or decree, the bankruptcy clerk must transmit a single record.<br><br>(3) *Receiving the Record.* Upon receiving the record or notice that it is available electronically, the district, BAP, or circuit clerk must enter that information on the docket and promptly notify all parties to the appeal.<br><br>(4) *If Paper Copies Are Ordered.* If the court where the appeal is pending directs that paper copies of the record be provided, the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant's expense.<br><br>(5) *When Leave to Appeal is Requested.* Subject to subdivision (c), if a motion for leave to appeal has been filed under Rule 8004, the bankruptcy clerk must prepare and transmit the record only after the district court, BAP, or court of appeals grants leave. | **(b) Clerk's Duties.**<br><br>(1) ***Sending the Record.*** Subject to Rule 8009(f) and ~~paragraph~~ (5) below, when the record is complete, the bankruptcy clerk must send to the clerk of the court where the appeal is pending either the record or a notice that ~~the record~~it is available electronically.<br><br>(2) ***Multiple Appeals.*** ~~When~~ If there are multiple appeals from a judgment, order, or decree, the bankruptcy clerk must send a single record.<br><br>(3) ***Docketing the Record in the Appellate Court.*** Upon receiving the record—or a notice that it is available electronically—the district, BAP, or circuit clerk must enter that information on the docket and promptly notify all parties to the appeal.<br><br>(4) ***If the Court Orders Paper Copies.*** If the court where the appeal is pending orders that paper copies of the record be provided, the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant's expense.<br><br>(5) ***Motion for Leave to Appeal.*** Subject to (c), if a motion for leave to appeal is filed under Rule 8004, the bankruptcy clerk must prepare and send the record only after the motion is granted. |

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| (c) RECORD FOR A PRELIMINARY MOTION IN THE DISTRICT COURT, BAP, OR COURT OF APPEALS. This subdivision (c) applies if, before the record is transmitted, a party moves in the district court, BAP, or court of appeals for any of the following relief:<br>• leave to appeal;<br>• dismissal;<br>• a stay pending appeal;<br>• approval of a bond or other security provided to obtain a stay of judgment; or<br>• any other intermediate order.<br>The bankruptcy clerk must then transmit to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal or a notice that those parts are available electronically. | **(c) When a Preliminary Motion Is Filed in the District Court, BAP, or Court of Appeals.**<br>(1) ***In General.*** This subdivision (c) applies if, before the record is sent, a party moves in the district court, BAP, or court of appeals for:<br>(A) leave to appeal;<br>(B) dismissal;<br>(C) a stay pending appeal;<br>(D) approval of a bond or other security provided to obtain a stay of judgment; or<br>(E) any other intermediate order.<br>(2) ***Sending the Record.*** The bankruptcy clerk must send to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal—or send a notice that they are available electronically. |

**Committee Note**

The language of Rule 8010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8010(a)(1) the word "were" was replaced with "are".

• In Rule 8010(b)(1), the word "paragraph" has been deleted, and the words "the record" have been replaced by "it".

• In Rule 8010(b)(2) the word "When" has been replaced with "If".

• In Rule 8010(c)(1), the five bullet points have been replaced with letters (A) through (E).

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 8010(a)(2)(C), the NBC finds the reference to an "order" unclear and suggests adding the word "transcript" before it (to distinguish from any order subject to the notice of appeal.

> ***Response***: The existing rule refers to "an order for a transcript" only in 8010(a)(2)(A) and then just uses the term "order" in (C). The restyled rule follows this pattern, referring to a "transcript order in 8010(a)(2)(A) and "order" in (C). No change was made in response to this comment.

The NBC noted a spacing problem in (a)(2)(D).

> ***Response***: This is not a typo, but is one of the many formatting issues that are being addressed.

The NBC pointed out that the use of the phrase "paragraph (5) below" in Rule 8010(b)(1) was inconsistent with the usage elsewhere and suggested removing the word "paragraph".

> ***Response***: Suggestion accepted.

In Rule 8010(b)(5), the NBC suggests that the obligation to prepare the record should not be triggered solely by a motion for leave to appeal because under Rule 8004(d) a reviewing court may treat a notice of appeal as a motion for leave to appeal. They suggest replacing "if a motion for leave to appeal is filed" with "if a party files a motion specifically requesting leave to appeal."

> ***Response***: The existing rule uses the phrase "if a motion for leave to appeal has been filed." This would be a substantive change. No change was made in response to this suggestion.

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| **Rule 8011. Filing and Service; Signature** | **Rule 8011. Filing and Service; Signature** |
| (a) FILING.<br><br>(1) *With the Clerk.* A document required or permitted to be filed in a district court or BAP must be filed with the clerk of that court.<br><br>(2) *Method and Timeliness.*<br><br>(A) *Nonelectronic Filing.*<br><br>(i) *In General.* For a document not filed electronically, filing may be accomplished by mail addressed to the clerk of the district court or BAP or by delivery to the clerk or BAP. Except as provided in subdivision (a)(2)(A)(ii) and (iii), filing is timely only if the clerk receives the document within the time fixed for filing.<br><br>(ii) *Brief or Appendix.* A brief or appendix not filed electronically is also timely filed if, on or before the last day for filing, it is:<br><br>• mailed to the clerk by first-class mail—or other class of mail that is at least as expeditious—postage prepaid; or<br><br>• dispatched to a third-party commercial carrier for delivery within 3 days to the clerk.<br><br>(iii) *Inmate Filing.* If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 8011(a)(2)(A)(iii). A document not filed electronically by an inmate confined in an institution is timely if it is deposited in the institution's internal mailing system on or before the last day for filing and: | **(a) Filing.**<br><br>(1) ***With the Clerk.*** A document required or permitted to be filed in a district court or BAP must be filed with the clerk of that court.<br><br>(2) ***Method and Timeliness.***<br><br>(A) *Nonelectronic Filing.*<br><br>(i) In General. For a document not filed electronically, filing may be accomplished by mail addressed to the ~~clerk of the~~ district~~court~~ or BAP clerk. Except as provided in (ii) and (iii), filing is timely only if the clerk receives the document within the time set for filing.<br><br>(ii) Brief or Appendix. A brief or appendix not filed electronically is also timely filed if, on or before the last day for filing, it is:<br><br>• mailed to the clerk by first-class mail—or other class of mail that is at least as expeditious—postage prepaid; or<br><br>• dispatched to a third-party commercial carrier for delivery to the clerk within 3 days.<br><br>(iii) Inmate Filing. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this item (iii). A document not filed electronically by an inmate |

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| • it is accompanied by a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or<br><br>• the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies this Rule 8011(a)(2)(A)(iii).<br><br>(B) *Electronic Filing.*<br><br>(i) owed or required by local rule. By a Represented Person—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is all<br><br>(ii) By an Unrepresented Individual—When Allowed or Required. An individual not represented by an attorney:<br><br>• may file electronically only if allowed by court order or by local rule; and<br><br>• may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions.<br><br>(iii) Same as a Written Paper. A document filed electronically is a written paper for purposes of these rules. | confined in an institution is timely if it is deposited in the institution's internal mailing system on or before the last day for filing and:<br><br>• it is accompanied by a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or by evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or<br><br>• the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies this item (iii).<br><br>(B) *Electronic Filing.*<br><br>(i) By a Represented Person—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.<br><br>(ii) By an Unrepresented Individual—When Allowed or Required. An individual not represented by an attorney:<br><br>• may file electronically only if allowed by court order or by local rule; and |

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| (C) *Copies.* If a document is filed electronically, no paper copy is required. If a document is filed by mail or delivery to the district court or BAP, no additional copies are required. But the district court or BAP may require by local rule or by order in a particular case the filing or furnishing of a specified number of paper copies.<br><br>(3) *Clerk's Refusal of Documents.* The court's clerk must not refuse to accept for filing any document transmitted for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice. | • may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions.<br><br>(iii) Same as a Written Paper. A document filed electronically is a written paper for purposes of these rules.<br><br>(C) *When Paper Copies Are Required.* No paper copies are required when a document is filed electronically. If a document is filed by mail or by delivery to the district court or BAP, no additional copies are required. But the district court or BAP may, by local rule or order in a particular case, require that a specific number of paper copies be filed or furnished.<br><br>(3) ***Clerk's Refusal of Documents.*** The ~~court's~~ court clerk must not refuse to accept for filing any document ~~presented for that purpose~~ solely because it is not presented in proper form as required by these rules or by any local rule or practice. |
| (b) SERVICE OF ALL DOCUMENTS REQUIRED. Unless a rule requires service by the clerk, a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel. | **(b)** ***Service of All Documents Required.*** Unless a rule requires service by the clerk, a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel. |

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| (c) MANNER OF SERVICE.<br><br>(1) *Nonelectronic Service.* Nonelectronic service may be by any of the following:<br><br>(A) personal delivery;<br><br>(B) mail; or<br><br>(C) third-party commercial carrier for delivery within 3 days.<br><br>(2) *Electronic Service.* Electronic service may be made by sending a document to a registered user by filing it with the court's electronic-filing system or by using other electronic means that the person served consented to in writing.<br><br>(3) *When Service Is Complete.* Service by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. | **(c) Manner of Service.**<br><br>(1) ***Nonelectronic Service.*** Nonelectronic service may be by any of the following:<br><br>(A) personal delivery;<br><br>(B) mail; or<br><br>(C) third-party commercial carrier for delivery within 3 days.<br><br>(2) ***Service By Electronic Means.*** Electronic service may be made by:<br><br>(A) sending a document to a registered user by filing it with the court's electronic-filing system; or<br><br>(B) using other electronic means that the person served consented to in writing.<br><br>(3) ***When Service Is Complete.*** Service by mail or by third-party commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served. |
| (d) PROOF OF SERVICE.<br><br>(1) *What Is Required.* A document presented for filing must contain either of the following if it was served other than through the court's electronic-filing system: | **(d) Proof of Service.**<br><br>(1) ***Requirements.*** A document presented for filing must contain either of the following if it was served other than through the court's electronic-filing system: |

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| (A) an acknowledgment of service by the person served; or<br><br>(B) proof of service consisting of a statement by the person who made service certifying:<br><br>(i) the date and manner of service;<br><br>(ii) the names of the persons served; and<br><br>(iii) the mail or electronic address, the fax number, or the address of the place of delivery, as appropriate for the manner of service, for each person served.<br><br>(2) *Delayed Proof*. The district or BAP clerk may permit documents to be filed without acknowledgment or proof of service, but must require the acknowledgment or proof to be filed promptly thereafter.<br><br>(3) *Brief or Appendix*. When a brief or appendix is filed, the proof of service must also state the date and manner by which it was filed. | (A) an acknowledgement of service by the person served; or<br><br>(B) proof of service consisting of a statement by the person who made service certifying:<br><br>(i) the date and manner of service;<br><br>(ii) the names of the persons served; and<br><br>(iii) the mail or electronic address, the fax number, or the address of the place of delivery—as appropriate for the manner of service—for each person served.<br><br>(2) ***Delayed Proof of Service.*** A district or BAP clerk may accept a document for filing without an acknowledgement or proof of service, but must require the acknowledgment or proof of service to be filed promptly thereafter.<br><br>(3) ***For a Brief or Appendix.*** When a brief or appendix is filed, the proof of service must also state the date and manner by which it was filed. |
| (e) SIGNATURE. Every document filed electronically must include the electronic signature of the person filing it or, if the person is represented, the electronic signature of counsel. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a | **(e) Signature Always Required.**<br><br>(1) ***Electronic Filing.*** Every document filed electronically must include the electronic signature of the person filing it or, if the person is represented, the counsel's electronic signature. A filing made through a person's electronic-filing account and authorized by that |

| ORIGINAL | REVISION |
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| signature block, constitutes the person's signature. Every document filed in paper form must be signed by the person filing the document or, if the person is represented, by counsel. | person—together with that person's name on a signature block—constitutes the person's signature.<br>(2) ***Paper Filing.*** Every document filed in paper form must be signed by the person filing it or, if the person is represented, by the person's counsel. |

**Committee Note**

The language of Rule 8011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8011(a)(2)(A)(i), the words "clerk of the district court or BAP" have been changed to "district or BAP clerk", a change that is making consistent the treatment of that phrase.

• The word "by" was inserted before the word "delivery" in 8011(a)(2)(C).

• In 8011(a)(3) the word "court's" was changed to "court" and the words "presented for that purpose" were deleted.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 8011(a)(2)(A)(i) and (ii), NBC objects to the absence of any language permitting personal filing of paper documents with the clerk.

> ***Response***: The addition of language providing for personal delivery of physical documents to the clerk would be a substantive change and, as NBC acknowledges, is "perhaps obvious." We have made no change in response to this suggestion.

In Rule 8011(a)(2)(B)(ii), the NBC thinks that the reference to "an individual not represented by an attorney" excludes pro se attorneys who have filing privileges and that the language should be modified to read "an individual not represented by an attorney who otherwise is not authorized by court order or rule to file matters with the court electronically."

> ***Response***: This would be a substantive change. We have made no change in response to this suggestion.

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| **Rule 8012. Disclosure Statement** | **Rule 8012. Disclosure Statement** |
| (a) NONGOVERNMENTAL COPRORATIONS. Any nongovernmental corporation that is a party to a proceeding in the district court or BAP must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene. | **(a) Disclosure by a Nongovernmental Corporation.** Any nongovernmental corporation that is a party to a district-court or BAP proceeding ~~in the district court or BAP~~ or that seeks to intervene must file a statement that:<br>(1) identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock; or<br>(2) states that there is no such corporation. ~~The same requirement applies to a nongovernmental corporation that seeks to intervene.~~ |
| (b) DISCLOSURE ABOUT THE DEBTOR. The debtor, the trustee, or, if neither is a party, the appellant must file a statement that:<br>(1) identifies each debtor not named in the caption; and<br>(2) for each debtor that is a corporation, discloses the information required by Rule 8012(a). | **(b) Disclosure About the Debtor.** The debtor, the trustee, or, if neither is a party, the appellant must file a statement that:<br>(1) identifies each debtor not named in the caption; and<br>(2) for each debtor that is a corporation, discloses the information required by (a). |
| (c) TIME TO FILE; SUPPLEMENTAL FILING. A Rule 8012 statement must:<br>(1) be filed with the principal brief or upon filing a motion, response, petition, or answer in the district court or BAP, whichever occurs first, unless a local rule requires earlier filing;<br>(2) be included before the table of contents in the principal brief; and<br>(3) be supplemented whenever the information required by Rule 8012 changes. | **(c) Time to File; Supplemental Filing.** A Rule 8012 statement must:<br>(1) be filed with the principal brief or upon filing a motion, response, petition, or answer in the district court or BAP, whichever occurs first~~,~~ unless a local rule requires earlier filing;<br>(2) be included before the table of contents in the principal brief; and<br>(3) be supplemented whenever the information required by this rule changes. |

**Committee Note**

The language of Rule 8012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Changes Made After Publication and Comment**

• Rule 8012(a) has been modified to conform in style to Fed. R. Civ. P. 7.1(a). This includes inserting subsections, and replacing the last sentence with an insertion of the words "or that seeks to intervene" before "must file a statement". Also in (a), the words "a proceeding in the district court or BAP" have been replaced with "a district-court or BAP proceeding" at the request of the style consultants.

• In (c)(1) the comma following the word "first" was replaced by an em dash.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested changing the words "that identifies" to "identifying" and the word "states" to "stating" in Rule 8012(a).

> ***Response:*** Because of the change in format of Rule 8012(a), those changes are not appropriate.

| ORIGINAL | REVISION |
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| **Rule 8013. Motions; Intervention** | **Rule 8013. Motions; Interventions** |
| (a) CONTENTS OF A MOTION; RESPONSE; REPLY.<br><br>(1) *Request for Relief.* A request for an order or other relief is made by filing a motion with the district or BAP clerk.<br><br>(2) *Contents of a Motion.*<br><br>(A) *Grounds and the Relief Sought.* A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.<br><br>(B) *Motion to Expedite an Appeal.* A motion to expedite an appeal must explain what justifies considering the appeal ahead of other matters. If the district court or BAP grants the motion, it may accelerate the time to transmit the record, the deadline for filing briefs and other documents, oral argument, and the resolution of the appeal. A motion to expedite an appeal may be filed as an emergency motion under subdivision (d).<br><br>(C) *Accompanying Documents.*<br><br>(i) Any affidavit or other document necessary to support a motion must be served and filed with the motion.<br><br>(ii) An affidavit must contain only factual information, not legal argument. | **(a) Content of a Motion; Response; Reply.**<br><br>(1) ***Request for Relief.*** A request for an order or other relief is made by filing a motion with the district or BAP clerk.<br><br>(2) ***Content of a Motion.***<br><br>(A) *Grounds, ~~and the~~ Relief Sought, and Supporting Argument.* A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument ~~necessary to support~~supporting it.<br><br>(B) *Motion to Expedite an Appeal.* A motion to expedite an appeal must explain what justifies considering the appeal ahead of other matters. The motion may be filed as an emergency motion under (d). If it is granted, the district court or BAP may accelerate the time to:<br><br>(i) send the record;<br><br>(ii) file briefs and other documents;<br><br>(iii) conduct oral argument; and<br><br>(iv) resolve the appeal.<br><br>(C) *Accompanying Documents.*<br><br>(i) Supporting Document. Any affidavit or other document necessary to support a motion must be served and filed with the motion.<br><br>(ii) Content of Affidavit. An affidavit must contain only factual information, not legal argument.<br><br>(iii) Motion Seeking Substantive Relief. A motion seeking substantive relief must include a copy of the |

| ORIGINAL | REVISION |
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| (ii) A motion seeking substantive relief must include a copy of the bankruptcy court's judgment, order, or decree, and any accompanying opinion as a separate exhibit.<br><br>(D) *Documents Barredor Not Required.*<br><br>(i) A separate brief supporting or responding to a motion must not be filed.<br><br>(ii) Unless the court orders otherwise, a notice of motion or a proposed order is not required.<br><br>(3) *Response and Reply; Time to File*. Unless the district court or BAP orders otherwise,<br><br>(A) any party to the appeal may file a response to the motion within 7 days after service of the motion; and<br><br>(B) the movant may file a reply to a response within 7 days after service of the response, but may only address matters raised in the response. | bankruptcy court's judgment, order, or decree, and any accompanying opinion as a separate exhibit.<br><br>(D) *Documents Barred or Not Required.*<br><br>(i) No Separate Brief. A separate brief supporting or responding to a motion must not be filed.<br><br>(ii) Notice and Proposed Order Not Required. Unless the court orders otherwise, a notice of motion or a proposed order is not required.<br><br>(3) ***Response and Reply; Time to File.*** Unless the district court or BAP orders otherwise:<br><br>(A) any party to the appeal may—within 7 days after the motion is served—file a response to the motion; and<br><br>(B) the movant may—within 7 days after the response is served—file a reply that addresses only matters raised in the response. |
| (b) DISPOSITION OF A MOTION FOR A PROCEDURAL ORDER. The district court or BAP may rule on a motion for a procedural order—including a motion under Rule 9006(b) or (c)—at any time without awaiting a response. A party adversely affected by the ruling may move to reconsider, vacate, or modify it within 7 days after the procedural order is served. | **(b) Disposition of a Motion for a Procedural Order.** The district court or BAP may rule on a motion for a procedural order—including a motion under Rule 9006(b) or (c)—at any time, without awaiting a response. A party adversely affected by the ruling may move to reconsider, vacate, or modify it within 7 days after the order is served. |
| (c) ORAL ARGUMENT. A motion will be decided without oral argument unless the district court or BAP orders otherwise. | **(c) Oral Argument.** A motion will be decided without oral argument unless the district court or BAP orders otherwise. |

| ORIGINAL | REVISION |
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| (d) EMERGENCY MOTION.<br><br>(1) *Noting the Emergency*. When a movant requests expedited action on a motion because irreparableharm would occur during the time needed to consider a response, the movant must insert the word "Emergency" before the title of the<br><br>motion.<br><br>(2) *Contents of the Motion*. The emergency motion must<br><br>(A) be accompanied by an affidavit setting out the nature of the emergency;<br><br>(B) state whether all grounds for it were submitted to the bankruptcy court and, if not, why the motion should not be remanded for the bankruptcy court to consider;<br><br>(C) include the e-mail addresses, office addresses, and telephone numbers of moving counsel and, when known, of opposing counsel and any unrepresented parties to the appeal; and<br><br>(D) be served as prescribed by Rule 8011.<br><br>(3) *Notifying Opposing Parties*. Before filing an emergency motion, the movant must make every practicable effort to notify opposing counsel and any unrepresented parties in time for them to respond. The affidavit accompanying the emergency motion must state when and how notice was given or state why giving it was impracticable. | **(d) Emergency Motion.**<br><br>(1) ***Noting the Emergency.*** A movant who requests expedited action—because irreparable harm would occur during the time needed to consider a response—must insert "Emergency" before the motion's title.<br><br>(2) ***Content.*** An emergency motion must:<br><br>(A) be accompanied by an affidavit setting forth the nature of the emergency;<br><br>(B) state whether all grounds for it were previously submitted to the bankruptcy court and, if not, why the motion should not be remanded;<br><br>(C) include:<br><br>(i) the email address, office address, and telephone number of the moving counsel; and<br><br>(ii) when known, the same information as in (i) for opposing counsel and any unrepresented party to the appeal; and<br><br>(D) be served as Rule 8011 prescribes.<br><br>(3) ***Notifying Opposing Parties.*** Before filing an emergency motion, the movant must make every practicable effort to notify opposing counsel and any unrepresented party in time for them to respond. The affidavit accompanying the motion must state:<br><br>(A) when and how notice was given; or<br><br>(B) why giving ~~notice~~ it was impracticable. |

| ORIGINAL | REVISION |
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| (e) POWER OF A SINGLE BAP JUDGE TO ENTERTAIN A MOTION.<br><br>(1) *Single Judge's Authority.* A BAP judge may act alone on any motion, but may not dismiss or otherwise determine an appeal, deny a motion for leave to appeal, or deny a motion for a stay pending appeal if denial would make the appeal moot.<br><br>(2) *Reviewing a Single Judge's Action.* The BAP may review a single judge's action, either on its own motion or on a party's motion. | **(e) Motion Considered by a Single BAP Judge.**<br><br>(1) ***Judge's Authority.*** A BAP judge may act alone on any motion but may not:<br><br>(A) dismiss or otherwise determine an appeal;<br><br>(B) deny a motion for leave to appeal; or<br><br>(C) deny a motion for a stay pending appeal if denial would make the appeal moot.<br><br>(2) ***Reviewing a Single Judge's Action.*** The BAP, on its own or on a party's motion, may review a single judge's action. |
| (f) FORM OF DOCUMENTS; LENGTH LIMITS; NUMBER OF COPIES.<br><br>(1) Format of a Paper Document. Rule 27(d)(1) F.R.App.P. applies in the district court or BAP to a paper version of a motion, response, or reply.<br><br>(2) Format of an Electronically Filed Document. A motion, response, or reply filed electronically must comply with the requirements for a paper version regarding covers, line spacing, margins, typeface, and type style. It must also comply with the length limits under paragraph (3).<br><br>(3) Length Limits. Except by thedistrict court's or BAP's permission, andexcluding the accompanying documents authorized by subdivision (a)(2)(C): | **(f) Form of Documents; Length Limits; Number of Copies.**<br><br>(1) ***Document Filed in Paper Form.*** Fed. R. App. P. 27(d)(1) applies to a motion, response, or reply filed in paper form in the district court or BAP.<br><br>(2) ***Document Filed Electronically.*** A motion, response, or reply filed electronically must comply with the requirements in (1) for covers, line spacing, margins, typeface, and type style. It must also comply with the length limits in (3).<br><br>(3) ***Length Limits.*** Except by the district court's or BAP's permission, and excluding the accompanying documents authorized by (a)(2)(C): |

| ORIGINAL | REVISION |
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| (A) a motion or a response to a motion produced using a computer must include a certificate under Rule 8015(h) and not exceed 5,200 words;<br><br>(B) a handwritten or typewritten motion or a response to a motion must not exceed 20 pages;<br><br>(C) a reply produced using a computer must include a certificate under Rule 8015(h) and not exceed 2,600 words; and<br><br>(D) a handwritten or typewritten reply must not exceed 10 pages.<br><br>(4) *Paper Copies.* Paper copies must be provided only if required by local rule or by an order in a particular case. | (A) a motion or a response to a motion produced using a computer must include a certificate under Rule 8015(h) and not exceed 5,200 words;<br><br>(B) a handwritten or typewritten motion or a response to a motion must not exceed 20 pages;<br><br>(C) a reply produced using a computer must include a certificate under Rule 8015(h) and not exceed 2,600 words; and<br><br>(D) a handwritten or typewritten reply must not exceed 10 pages.<br><br>(4) ***Providing Paper Copies.*** Paper copies must be provided only if required by a local rule or by an order in a particular case. |
| (g) INTERVENING IN AN APPEAL. Unless a statute provides otherwise, an entity that seeks to intervene in an appeal pending in the district court or BAP must move for leave to intervene and serve a copy of the motion on the parties to the appeal. The motion or other notice of intervention authorized by statute must be filed within 30 days after the appeal is docketed. It must concisely state the movant's interest, the grounds for intervention, whether intervention was sought in the | **(g) Motion for Leave to Intervene.**<br><br>(1) ***Time to File.*** Unless a statute provides otherwise, an entity seeking to intervene in an appeal in the district court or BAP must move for leave to intervene and serve a copy of the motion on all parties to the appeal. The motion—or other notice of intervention authorized by statute—must be filed within 30 days after the appeal is docketed. |

| ORIGINAL | REVISION |
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| bankruptcy court, why intervention is being sought at this stage of the proceeding, and why participating as an amicus curiae would not be adequate. | (2) ***Content.*** The motion must concisely state:<br>(A) the movant's interest;<br>(B) the grounds for intervention;<br>(C) whether intervention was sought in the bankruptcy court;<br>(D) why intervention is being sought at this stage of the proceedings; and<br>~~(D)~~(E) why participating as an amicus curiae—rather than intervening—would not be adequate. |

**Committee Note**

The language of Rule 8013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8013(a)(2)(A), the title was amended to read "Grounds; Relief Sought; and Supporting Argument." In the text, the words "necessary to support" were changed to "supporting".

• In Rule 8013(d)(3)(B), the word "notice" was changed to "it".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 8013(b) the NBC again pointed out a spacing problem.

***Response***: This formatting issue is being addressed.

In Rule 8013(g)(2), the NBC noted that the (E) is missing from the list of (A)-(E).

***Response***: Corrected.

| ORIGINAL | REVISION |
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| **Rule 8014. Briefs** | **Rule 8014. Briefs** |
| (a) APPELLANT'S BRIEF. The appellant's brief must contain the following under appropriate headings and in the order indicated:<br><br>(1) a corporate disclosure statement, if required by Rule 8012;<br><br>(2) a table of contents, with page references;<br><br>(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;<br><br>(4) a jurisdictional statement, including:<br><br>(A) the basis for the bankruptcy court's subject-matter jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;<br><br>(B) the basis for the district court's or BAP's jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;<br><br>(C) the filing dates establishing the timeliness of the appeal; and<br><br>(D) an assertion that the appeal is from a final judgment, order, or decree, or information establishing the district court's or BAP's jurisdiction on another basis; | **(a) Appellant's Brief.** The appellant's brief must contain the following under appropriate headings and in the order indicated:<br><br>(1) a disclosure statement, if required by Rule 8012;<br><br>(2) a table of contents, with page references;<br><br>(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;<br><br>(4) a jurisdictional statement, including:<br><br>(A) the basis for the bankruptcy court's subject-matter jurisdiction, citing applicable statutory provisions and stating relevant facts establishing jurisdiction;<br><br>(B) the basis for the district court's or BAP's jurisdiction, citing applicable statutory provisions and stating relevant facts establishing jurisdiction;<br><br>(C) the filing dates establishing the timeliness of the appeal; and<br><br>(D) an assertion that the appeal is from a final judgment, order, or decree~~,~~ or information establishing the district court's or BAP's jurisdiction on another basis;<br><br>(5) a statement of the issues presented and, for each one, a concise statement of the applicable standard of appellate review;<br><br>(6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and |

| ORIGINAL | REVISION |
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| (5) a statement of the issues presented and, for each one, a concise statement of the applicable standard of appellate review;<br><br>(6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record;<br><br>(7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;<br><br>(8) the argument, which must contain the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies;<br><br>(9) a short conclusion stating the precise relief sought; and<br><br>(10) the certificate of compliance, if required by Rule 8015(a)(7) or (b). | identifying the rulings presented for review, with appropriate references to the record;<br><br>(7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;<br><br>(8) the argument, which must contain the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies;<br><br>(9) a short conclusion stating the precise relief sought; and<br><br>(10) the certificate of compliance, if required by Rule 8015(a)(7) or (b). |

| ORIGINAL | REVISION |
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| (b) APPELLEE'S BRIEF. The appellee's brief must conform to the requirements of subdivision (a)(1)–(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant's statement:<br>(1) the jurisdictional statement;<br>(2) the statement of the issues and the applicable standard of appellate review; and<br>(3) the statement of the case. | **(b) Appellee's Brief.** The appellee's brief must conform to the requirements of (a)(1)–(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant's statement:<br>(1) the jurisdictional statement;<br>(2) the statement of the issues and the applicable standard of appellate review; and<br>(3) the statement of the case. |
| (c) REPLY BRIEF. The appellant may file a brief in reply to the appellee's brief. A reply brief must comply with the requirements of subdivision (a)(2)–(3). | **(c) Reply Brief.** The appellant may file a brief in reply to the appellee's brief. A reply brief must comply with (a)(2)–(3). |
| (d) STATUTES, RULES, REGULATIONS, OR SIMILAR AUTHORITY. If the court's determination of the issues presented requires the study of the Code or other statutes, rules, regulations, or similar authority, the relevant parts must be set out in the brief or in an addendum. | **(d) Setting Out Statutes, Rules, Regulations, or Similar Authorities.** If the court's determination of the issues presented requires the study of the Code or other statutes, rules, regulations, or similar authority, the relevant parts must be set out in the brief or in an addendum. |
| (e) BRIEFS IN A CASE INVOLVING MULTIPLE APPELLANTS OR APPELLEES. In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs. | **(e) Briefs in a Case Involving Multiple Appellants or Appellees.** In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs. |
| (f) CITATION OF SUPPLEMENTAL AUTHORITIES. If pertinent and significant authorities come to a party's | **(f) Citation of Supplemental Authorities.** If pertinent and significant authorities come to a party's attention after the party's brief |

| ORIGINAL | REVISION |
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| attention after the party's brief has been filed—or after oral argument but before a decision— a party may promptly advise the district or BAP clerk by a signed submission setting forth the citations. The submission, which must be served on the other parties to the appeal, must state the reasons for the supplemental citations, referring either to the pertinent page of a brief or to a point argued orally. The body of the submission must not exceed 350 words. Any response must be made within 7 days after the party is served, unless the court orders otherwise, and must be similarly limited. | has been filed—or after oral argument but before a decision—a party may promptly advise the district or BAP clerk by a signed submission, with a copy to all other parties, setting forth the citations. The submission must state the reasons for the supplemental citations, referring either to the pertinent page of a brief or to a point argued orally. The body of the submission must not exceed 350 words. Any response must be similarly limited, and it must be made within 7 days after service~~,~~ unless the court orders otherwise~~, and must be similarly limited~~. |

**Committee Note**

The language of Rule 8014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8014(a)(4)(D) the style consultants have replaced the comma following "decree" with a dash.

• In Rule 8014(f) the words "similarly limited, and it must be" were inserted after the words "response must be" in the last sentence, the comma was deleted after the word "service" and the phrase ", and must be similarly limited" was deleted at the end of the last sentence.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 8014(a)(3) the NBC finds the use of em dashes to set off the description of what must be in a table of authorities "odd" and the words "they are" ambiguous.

> ***Response***: This provision of the restyled rule is identical to the existing rule. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 8015. Form and Length of Briefs; Form of Appendices and Other Papers** | **Rule 8015. Form and Length of a Brief; Form of an Appendix or Other Paper** |
| (a) PAPER COPIES OF A BRIEF. If a paper copy of a brief may or must be filed, the following provisions apply:<br>(1) *Reproduction.*<br>(A) A brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.<br>(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.<br>(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original. A glossy finish is acceptable if the original is glossy.<br>(2) *Cover.* The front cover of a brief must contain:<br>(A) the number of the case centered at the top;<br>(B) the name of the court;<br>(C) the title of the case as prescribed by Rule 8003(d)(2) or 8004(c)(2);<br>(D) the nature of the proceeding and the name of the court below;<br>(E) the title of the brief, identifying the party or parties for whom the brief is filed; and | **(a) Paper Copies of a Brief.** If a paper copy of a brief may or must be filed, the following provisions apply:<br>(1) ***Reproduction.***<br>(A) *Printing.* The brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.<br>(B) *Text.* Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.<br>(C) *Other Reproductions.* Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original. A glossy finish is acceptable if the original is glossy.<br>(2) ***Cover.*** The front cover of the brief must contain:<br>(A) the number of the case centered at the top;<br>(B) the name of the court;<br>(C) the title of the case as prescribed by Rule 8003(d)(2) or 8004(c)(2);<br>(D) the nature of the proceeding and the name of the court below;<br>(E) the title of the brief, identifying the party or parties for whom the brief is filed; and<br>(F) the name, office address, telephone number, and e-mail address of counsel representing the party for whom the brief is filed. |

| ORIGINAL | REVISION |
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| (F) the name, office address, telephone number, and e-mail address of counsel representing the party for whom the brief is filed.<br><br>(3) *Binding.* The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.<br><br>(4) *Paper Size, Line Spacing, and Margins.* The brief must be on 8 1/2-by-11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.<br><br>(5) *Typeface.* Either a proportionally spaced or monospaced face may be used.<br><br>(A) A proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger.<br><br>(B) A monospaced face may not contain more than 10 1/2 characters per inch.<br><br>(6) *Type Styles.* A brief must be set in plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined. | (3) ***Binding.*** The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.<br><br>(4) ***Paper Size, Line Spacing, and Margins.*** The brief must be on 8½"-by-11" paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.<br><br>(5) ***Typeface.*** Either a proportionally spaced or monospaced face may be used.<br><br>(A) *Proportional Spacing.* A proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger.<br><br>(B) *Monospacing.* A monospaced face may not contain more than 10½ characters per inch.<br><br>(6) ***Type Styles.*** The brief must be set in plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.<br><br>(7) ***Length.***<br><br>(A) *Page Limitation.* A principal brief must not exceed 30 pages, or a reply brief 15 pages, unless it complies with (B).<br><br>(B) *Type-Volume Limitation.*<br><br>(i) Principal Brief. A principal brief is acceptable if it contains a certificate |

| ORIGINAL | REVISION |
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| (7) Length.<br><br>(A) Page Limitation. A principal brief must not exceed 30 pages,or a reply brief 15 pages, unless it complies with subparagraph (B).<br><br>(B) Type-volume Limitation.<br><br>(i) A principal brief is acceptable if it contains a certificate under Rule 8015(h) and:<br><br>• contains no more than 13,000 words; or<br><br>• uses a monospaced face and contains no more than 1,300 lines of text.<br><br>(ii) A reply brief is acceptable if it includes a certificate under Rule 8015(h) and contains no more than half of the type volume specified in item (i). | under (h) and:<br><br>• contains no more than 13,000 words; or<br><br>• uses a monospaced face and contains no more than 1,300 lines of text.<br><br>(ii) Reply Brief. A reply brief is acceptable if it includes a certificate under (h) and contains no more than half the type volume specified in item (i). |

| ORIGINAL | REVISION |
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| (b) ELECTRONICALLY FILED BRIEFS. A brief filed electronically must comply with subdivision (a), except for (a)(1), (a)(3), and the paper requirement of (a)(4). | **(b) Brief Filed Electronically.** A brief filed electronically must comply with (a)—except for (a)(1), (a)(3), and the paper requirement of (a)(4). |
| (c) PAPER COPIES OF APPENDICES. A paper copy of an appendix must comply with subdivision (a)(1), (2), (3), and (4), with the following exceptions:<br><br>(1) An appendix may include a legible photocopy of any document found in the record or of a printed decision.<br><br>(2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 1⁄2-by-11 inches, and need not lie reasonably flat when opened. | **(c) Paper Copies of an Appendix.** A paper copy of an appendix must comply with (a)(1), (2), (3), and (4), with the following exceptions:<br><br>(1) ~~Photocopy of Court Document. An~~ an appendix may include a legible photocopy of any document found in the record or of a printed decision~~.~~; and<br><br>(2) ~~Odd-Sized Document. When~~when necessary ~~to facilitate~~for ~~inclusion of~~including odd- sized documents such as technical drawings, an appendix may be a size other than 8½" by 11", and need not lie reasonably flat when opened. |
| (d) ELECTRONICALLY FILED APPENDICES. An appendix filed electronically must comply with subdivision (a)(2) and (4), except for the paper requirement of (a)(4). | **(d) Appendix Filed Electronically.** An appendix filed electronically must comply with (a)(2) and (4)—except for the paper requirement of (a)(4). |
| (e) OTHER DOCUMENTS.<br><br>(1) *Motion.* Rule 8013(f) governs the form of a motion, response, or reply.<br><br>(2) *Paper Copies of Other Documents.* A paper copy of any other document, other than a submission under Rule 8014(f), must comply with | **(e) Other Documents.**<br><br>(1) ***Motion.*** Rule 8013(f) governs the form of a motion, response, or reply.<br><br>(2) ***Paper Copies of Other Documents.*** A paper copy of any other document—except one submitted under Rule 8014(f)—must comply with (a), with the following exceptions: |

| ORIGINAL | REVISION |
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| subdivision (a), with the following exceptions:<br>(A) A cover is not necessary if the caption and signature page together contain the information required by subdivision (a)(2).<br>(B) Subdivision (a)(7) does not apply.<br>(3) *Other Documents Filed Electronically.* Any other document filed electronically, other than a submission under Rule 8014(f), must comply with the appearance requirements of paragraph (2). | (A) a cover is not necessary if the caption and signature page together contain the information required by (a)(2); and<br>(B) the length limits of (a)(7) do not apply.<br>(3) ***Document Filed Electronically.*** Any other document filed electronically—except a document submitted under Rule 8014(f)—must comply with the requirements of (2). |
| (f) LOCAL VARIATION. A district court or BAP must accept documents that comply with the form requirements of this rule and the length limits set by Part VIII of these rules. By local rule or order in a particular case, a district court or BAP may accept documents that do not meet all the form requirements of this rule or the length limits set by Part VIII of these rules. | **(f) Local Variation.** A district court or BAP must accept documents that comply with the form requirements of this rule and the length limits set by this Part VIII. By local rule or order in a particular case, a district court or BAP may accept documents that do not meet all the form requirements of this rule or the length limits set by this Part VIII. |
| (g) ITEMS EXCLUDED FROM LENGTH. In computing any length limit, headings, footnotes, and quotations count toward the limit, but the following items do not:<br>• the cover page;<br>• disclosure statement under Rule 8012;<br>• table of contents;<br>• table of citations;<br>• statement regarding oral argument; | **(g) Items Excluded from Length.** In computing any length limit, headings, footnotes, and quotations count toward the limit, but the following items do not:<br>• cover page;<br>• disclosure statement under Rule 8012;<br>• table of contents;<br>• table of citations;<br>• statement regarding oral argument; |

| ORIGINAL | REVISION |
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| • addendum containing statutes, rules, or regulations;<br>• certificates of counsel;<br>• signature block;<br>• proof of service; and<br>• any item specifically excluded by these rules or by local rule. | • addendum containing statutes, rules, or regulations;<br>• certificate of counsel;<br>• signature block;<br>• proof of service; and<br>• any item specifically excluded by these rules or by local rule. |
| (h) CERTIFICATE OF COMPLIANCE.<br>(1) *Briefs and Documents That Require a Certificate.* A brief submitted under Rule 8015(a)(7)(B), 8016(d)(2), or 8017(b)(4)—and a document submitted under Rule 8013(f)(3)(A), 8013(f)(3)(C), or 8022(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The individual preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of mono-spaced type—in the document.<br>(2) *Acceptable Form.* The certificate requirement is satisfied by a certificate of compliance that conforms substantially to the appropriate Official Form. | **(h) Certificate of Compliance.**<br>(1) ***Briefs and Documents That Require a Certificate.*** A brief submitted under Rule 8015(a)(7)(B), 8016(d)(2), or 8017(b)(4)—and a document submitted under Rule 8013(f)(3)(A), 8013(f)(3)(C), or 8022(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The individual preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of monospaced type—in the document.<br>(2) ***Using the Official Form.*** A certificate of compliance that conforms substantially to Form 417C satisfies the certificate requirement. |

**Committee Note**

The language of Rule 8015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The titles for Rule 8015(c)(1) and (2) were omitted; it is not the style convention to have titles

on paragraphs that are not independent of the text above.

• In Rule 8015(c)(2) the words "to facilitate inclusion of" were replaced with "for including".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the reference to "e-mail" in rule 8015(a)(2)(F) should be "email".

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
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| **Rule 8016. Cross-Appeals** | **Rule 8016. Cross-Appeals** |
| (a) APPLICABILITY. This rule applies to a case in which a cross- appeal is filed. Rules 8014(a)–(c), 8015(a)(7)(A)–(B), and 8018(a)(1)–(3) do not apply to such a case, except as otherwise provided in this rule. | **(a) Applicability.** This rule applies to a case in which a cross-appeal is filed. Rules 8014(a)–(c), 8015(a)(7)(A)–(B), and 8018(a)(1)–(3) do not apply to such a case, unless this rule states otherwise. |
| (b) DESIGNATION OF APPELLANT. The party who files a notice of appeal first is the appellant for purposes of this rule and Rule 8018(a)(4) and (b) and Rule 8019. If notices are filed on the same day, the plaintiff, petitioner, applicant, or movant in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order. | **(b) Designation of Appellant.** The party who files a notice of appeal first is the appellant for purposes of this rule and Rule 8018(a)(4) and (b) and Rule 8019. If notices are filed on the same day, the plaintiff, petitioner, applicant, or movant in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order. |
| (c) BRIEFS. In a case involving a cross-appeal:<br><br>(1) *Appellant's Principal Brief.* The appellant must file a principal brief in the appeal. That brief must comply with Rule 8014(a).<br><br>(2) *Appellee's Principal and Response Brief.* The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That brief must comply with Rule 8014(a), except that the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement.<br><br>(3) *Appellant's Response and Reply Brief.* The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same | **(c) Briefs.** In a case involving a cross-appeal:<br><br>(1) ***Appellant's Principal Brief.*** The appellant must file a principal brief in the appeal. That brief must comply with Rule 8014(a).<br><br>(2) ***Appellee's Principal and Response Brief.*** The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That brief must comply with Rule 8014(a), but the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement.<br><br>(3) ***Appellant's Response and Reply Brief.*** The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 8014(a)(2)–(8) and (10), but none of the following need appear unless the appellant is dissatisfied with the |

| ORIGINAL | REVISION |
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| brief, reply to the response in the appeal. That brief must comply with Rule 8014(a)(2)–(8) and (10), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:<br>(A) the jurisdictional statement;<br>(B) the statement of the issues and the applicable standard of appellate review; and<br>(C) the statement of the case.<br>(4) *Appellee's Reply Brief.* The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 8014(a)(2)–(3) and (10) and must be limited to the issues presented by the cross-appeal. | appellee's statement in the cross-appeal:<br>(A) the jurisdictional statement;<br>(B) the statement of the issues;<br>(C) the statement of the case; and<br>(D) the statement of the applicable standard of appellate review.<br>(4) ***Appellee's Reply Brief.*** The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 8014(a)(2)–(3) and (10) and must be limited to the issues presented by the cross-appeal. |
| (d) LENGTH.<br>(1) *Page Limitation.* Unless it complies with paragraph (2), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.<br>(2) *Type-volume Limitation.*<br>(A) The appellant's | **(d) Length.**<br>(1) ***Page Limitation.*** Unless it complies with (2), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.<br>(2) ***Type-Volume Limitation.***<br>(A) *Appellant's Brief.* The appellant's principal brief or the appellant's response and reply brief is |

| ORIGINAL | REVISION |
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| principal brief or the appellant's response and reply brief is acceptable if it includes a certificate under Rule 8015(h) and:<br><br>(i) contains no more than 13,000 words; or<br><br>(ii) uses a monospaced face and contains no more than 1,300 lines of text.<br><br>(B) The appellee's principal and response brief is acceptable if it includes a certificate under Rule 8015(h) and:<br><br>(i) contains no more than 15,300 words; or<br><br>(ii) uses a monospaced face and contains no more than 1,500 lines of text.<br><br>(C) The appellee's reply brief is acceptable if it includes a certificate under Rule 8015(h) and contains no more than half of the type volume specified in subparagraph (A). | acceptable if it includes a certificate under Rule 8015(h) and:<br><br>(i) contains no more than 13,000 words; or<br><br>(ii) uses a monospaced face and contains no more than 1,300 lines of text.<br><br>(B) *Appellee's Principal and Response Brief.* The appellee's principal and response brief is acceptable if it includes a certificate under Rule 8015(h) and:<br><br>(i) contains no more than 15,300 words; or<br><br>(ii) uses a monospaced face and contains no more than 1,500 lines of text.<br><br>(C) *Appellee's Reply Brief.* The appellee's reply brief is acceptable if it includes a certificate under Rule 8015(h) and contains no more than half the type volume specified in (A). |
| (e) TIME TO SERVE AND FILE A BRIEF. Briefs must be served and filed as follows, unless the district court or BAP by order in a particular case excuses the filing of briefs or specifies different time limits:<br><br>(1) the appellant's principal brief, | **(e) Time to Serve and File a Brief.** Briefs must be served and filed as follows, unless the district court or BAP by order in a particular case excuses the filing of briefs or sets different time limits:<br><br>(1) the appellant's principal brief, within 30 days after the docketing of a notice |

| ORIGINAL | REVISION |
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| within 30 days after the docketing of notice that the record has been transmitted or is available electronically;<br><br>(2) the appellee's principal and response brief, within 30 days after the appellant's principal brief is served;<br><br>(3) the appellant's response and reply brief, within 30 days after the appellee's principal and response brief is served; and<br><br>(4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served, but at least 7 days before scheduled argument unless the district court or BAP, for good cause, allows a later filing. | that the record has been sent or is available electronically;<br><br>(2) the appellee's principal and response brief, within 30 days after the appellant's principal brief is served;<br><br>(3) the appellant's response and reply brief, within 30 days after the appellee's principal and response brief is served; and<br><br>(4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served~~,~~ but at least 7 days before scheduled argument—unless the district court or BAP, for ~~good~~ cause, allows a later filing. |

**Committee Note**

The language of Rule 8016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8016(e)(4) a dash has been inserted after the word "argument," and the phrase "good cause" has been changed to "cause".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC noted a spacing problem in Rule 8016(b).

***Response***: This is part of the formatting problem which is being addressed.

The NBC suggested that the use of the phrase "good cause" in Rule 8016(e)(4) was inconsistent with the other restyled rules that changed that phrase to "cause".

***Response***: All instances of "good cause" have been changed to "cause."

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| **Rule 8017. Brief of an Amicus Curiae** | **Rule 8017. Brief of an Amicus Curiae** |
| (a) DURING INITIAL CONSIDERATION OF A CASE ON THE MERITS.<br><br>(1) *Applicability*. This Rule 8017(a) governs amicus filings during a court's initial consideration of a case on the merits.<br><br>(2) *When Permitted*. The United States or its officer or agency or a state may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing, but a district court or BAP may prohibit the filing of or may strike an amicus brief that would result in a judge's disqualification. On its own motion, and with notice to all parties to an appeal, the district court or BAP may request a brief by an amicus curiae.<br><br>(3) *Motion for Leave to File*. The motion must be accompanied by the proposed brief and state:<br><br>(A) the movant's interest; and<br><br>(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the appeal.<br><br>(4) *Contents and Form*. An amicus brief must comply with Rule 8015. In addition to the requirements of Rule 8015, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If an amicus curiae is a corporation, the brief must include a | **(a) During the Initial Consideration of a Case on the Merits.**<br><br>(1) ***Applicability.*** This subdivision (a) governs amicus filings during a court's initial consideration of a case on the merits.<br><br>(2) ***When Permitted.*** The United States, ~~or~~ its officer or agency, or a state may file an amicus brief without the parties' consent ~~of the parties~~ or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing, but a district court or BAP may prohibit the filing of or may strike an amicus brief that would result in a judge's disqualification. On its own, and with notice to all parties to an appeal, the district court or BAP may request a brief by an amicus curiae.<br><br>(3) ***Motion for Leave to File.*** ~~The~~ A motion for leave must be accompanied by the proposed brief and state:<br><br>(A) the movant's interest; and<br><br>(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the appeal.<br><br>(4) ***Content and Form.*** An amicus brief must comply with Rule 8015. In addition, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If an amicus curiae is a corporation, the brief must include a disclosure statement like that required of parties by Rule 8012. An amicus |

| ORIGINAL | REVISION |
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| disclosure statement like that required of parties by Rule 8012. An amicus brief need not comply with Rule 8014, but must include the following:<br><br>(A) a table of contents, with page references;<br><br>(B) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;<br><br>(C) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;<br><br>(D) unless the amicus curiae is one listed in the first sentence of subdivision (a)(2), a statement that indicates whether:<br><br>(i) a party's counsel authored the brief in whole or in part;<br><br>(ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and<br><br>(iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;<br><br>(E) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review; and | brief need not comply with Rule 8014, but must include the following:<br><br>(A) a table of contents, with page references;<br><br>(B) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;<br><br>(C) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;<br><br>(D) unless the amicus curiae is one listed in the first sentence of (2), a statement that indicates whether:<br><br>(i) a party's counsel authored the brief in whole or in part;<br><br>(ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and<br><br>(iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;<br><br>(E) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review; and<br><br>(F) a certificate of compliance, if required by Rule 8015(h).<br><br>(5) ***Length.*** Except by the district court's or BAP's permission, an amicus brief must be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the |

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| (F) a certificate of compliance, if required by Rule 8015(h).<br><br>(5) *Length.* Except by the district court's or BAP's permission, an amicus brief must be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.<br><br>(6) *Time for Filing.* An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.<br><br>(7) *Reply Brief.* Except by the district court's or BAP's permission, an amicus curiae may not file a reply brief.<br><br>(8) *Oral Argument.* An amicus curiae may participate in oral argument only with the district court's or BAP's permission. | court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.<br><br>(6) ***Time for Filing.*** An amicus curiae must file its brief—accompanied by a motion for leave to file when required—within 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief within 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.<br><br>(7) ***Reply Brief.*** Except by the district court's or BAP's permission, an amicus curiae may not file a reply brief.<br><br>(8) ***Oral Argument.*** An amicus curiae may participate in oral argument only with the district court's or BAP's permission. |

| ORIGINAL | REVISION |
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| (b) DURING CONSIDERATION OF WHETHER TO GRANT REHEARING.<br><br>(1) *Applicability.* This Rule 8017(b) governs amicus filings during a district court's or BAP's consideration of whether to grant rehearing, unless a local rule or order in a case provides otherwise.<br><br>(2) *When Permitted.* The United States or its officer or agency or a state may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court.<br><br>(3) *Motion for Leave to File.* Rule 8017(a)(3) applies to a motion for leave.<br><br>(4) *Contents, Form, and Length.* Rule 8017(a)(4) applies to the amicus brief. The brief must include a certificate under Rule 8015(h) and not exceed 2,600 words.<br><br>(5) *Time for Filing.* An amicus curiae supporting the motion for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the motion is filed. An amicus curiae opposing the motion for rehearing must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response. | **(b) During Consideration of Whether to Grant Rehearing.**<br><br>(1) ***Applicability.*** This subdivision (b) governs amicus filings during a district court's or BAP's consideration of whether to grant rehearing, unless a local rule or order in a particular case provides otherwise.<br><br>(2) ***When Permitted.*** The United States, ~~or~~ its officer or agency, or a state may file an amicus brief without the parties' consent ~~of the parties~~ or leave of court. Any other amicus curiae may file a brief only by leave of court.<br><br>(3) ***Motion for Leave to File.*** Paragraph (a)(3) applies to a motion for leave to file.<br><br>(4) ***Content, Form, and Length.*** Paragraph (a)(4) applies to the amicus brief. The brief must include a certificate under Rule 8015(h) and not exceed 2,600 words.<br><br>(5) ***Time ~~for Filing~~to File.*** An amicus curiae supporting a motion for rehearing or supporting neither party must file its brief—accompanied by a motion for leave to file when required—within 7 days after the motion is filed. An amicus curiae opposing the motion for rehearing must file its brief—accompanied by a motion for leave to file when required—no later than the date set by the court for the response. |

**Committee Note**

The language of Rule 8017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Changes Made After Publication and Comment**

• In Rule 8017(a)(2) in the first sentence a comma was inserted after the words "United States" and after "agency" and the word "or" before "its officer" was deleted. In addition, the phrase "consent of the parties" was replaced with "parties' consent".

• In (a)(3) the first word of the sentence was changed from "The" to "A".

• In the first sentence of (b)(2) the same changes that were made in the first sentence of (a)(2).

• the title of (b)(5) was changed to replace the words "for Filing" with "to File".

**Summary of Public Comment**

• **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC makes the same comment on Rule 8017(a)(4)(B) that it made on Rule 8014(a)(3), objecting to the em dashes and suggesting that the words "they are" are ambiguous.

> ***Response***: Just as was true for Rule 8014(a)(3), the language of the restyled rule is identical to the language of the existing rule. No change was made as a result of this comment.

| ORIGINAL | REVISION |
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| **Rule 8018. Serving and Filing Briefs; Appendices** | **Rule 8018. Serving and Filing Briefs and Appendices** |
| (a) TIME TO SERVE AND FILE A BRIEF. The following rules apply unless the district court or BAP by order in a particular case excuses the filing of briefs or specifies different time limits:<br><br>(1) The appellant must serve and file a brief within 30 days after the docketing of notice that the record has been transmitted or is available electronically.<br><br>(2) The appellee must serve and file a brief within 30 days after service of the appellant's brief.<br><br>(3) The appellant may serve and file a reply brief within 14 days after service of the appellee's brief, but a reply brief must be filed at least 7 days before scheduled argument unless the district court or BAP, for good cause, allows a later filing.<br><br>(4) If an appellant fails to file a brief on time or within an extended time authorized by the district court or BAP, an appellee may move to dismiss the appeal—or the district court or BAP, after notice, may dismiss the appeal on its own motion. An appellee who fails to file a brief will not be heard at oral argument unless the district court or BAP grants permission. | **(a) Time to Serve and File a Brief.** Unless the district court or BAP by order in a particular case excuses the filing of briefs or sets a different time, the following time limits apply:<br><br>(1) ***Appellant's Brief.*** The appellant must serve and file a brief within 30 days after the docketing of notice that the record has been sent or that it is available electronically.<br><br>(2) ***Appellee's Brief.*** The appellee must serve and file a brief within 30 days after the appellant's brief is served.<br><br>(3) ***Appellant's Reply Brief.*** The appellant may serve and file a reply brief within 14 days after service of the appellee's brief but at least 7 days before scheduled argument—unless the district court or BAP, for ~~good~~ cause, allows a later filing.<br><br>(4) ***Consequence of Failure to File.*** If an appellant fails to file a brief on time or within an extended time authorized under (a)(3), the district court or BAP may—on its own after notice or on the appellee's motion—dismiss the appeal. An appellee who fails to file a brief will not be heard at oral argument unless the district court or BAP grants permission. |
| (b) DUTY TO SERVE AND FILE AN APPENDIX TO THE BRIEF. | **(b) Duty to Serve and File an Appendix.**<br><br>(1) ***Appellant's Duty.*** Subject to (e) and Rule 8009(d), the appellant must serve |

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| (1) *Appellant.* Subject to subdivision (e) and Rule 8009(d), the appellant must serve and file with its principal brief excerpts of the record as an appendix. It must contain the following:<br>(A) the relevant entries in the bankruptcy docket;<br>(B) the complaint and answer, or other equivalent filings;<br>(C) the judgment, order, or decree from which the appeal is taken;<br>(D) any other orders, pleadings, jury instructions, findings, conclusions, or opinions relevant to the appeal;<br>(E) the notice of appeal; and<br>(F) any relevant transcript or portion of it. | and file with its principal brief an appendix containing excerpts from the record. It must contain:<br>(A) the relevant docket entries;<br>(B) the complaint and answer, or equivalent filings;<br>(C) the judgment, order, or decree from which the appeal is taken;<br>(D) any other orders, pleadings, jury instructions, findings, conclusions, or opinions relevant to the appeal;<br>(E) the notice of appeal; and<br>(F) any relevant transcript or portion of it. |
| (2) *Appellee.* The appellee may also serve and file with its brief an appendix that contains material required to be included by the appellant or relevant to the appeal or cross-appeal, but omitted by the appellant. | (2) ***Appellee's ~~Duty~~ Appendix.*** The appellee may serve and file with its brief an appendix containing any material that is required to be included or is relevant to the appeal or cross-appeal but that is omitted from the appellant's appendix. |
| (3) *Cross-Appellee.* The appellant as cross-appellee may also serve and file with its response an appendix that contains material relevant to matters raised initially by the principal brief in the cross-appeal, but omitted by the cross-appellant. | (3) ***~~Appellant's Duty as~~ Cross-Appellee's Appendix.*** The appellant—as cross-appellee—may also serve and file with its response an appendix containing material that is relevant to matters raised initially by the cross-appeal~~,~~ but that is omitted by the cross-appellant. |

| ORIGINAL | REVISION |
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| (c) FORMAT OF THE APPENDIX. The appendix must begin with a table of contents identifying the page at which each part begins. The relevant docket entries must follow the table of contents. Other parts of the record must follow chronologically. When pages from the transcript of proceedings are placed in the appendix, the transcript page numbers must be shown in brackets immediately before the included pages. Omissions in the text of documents or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, and the like) should be omitted. | **(c) Format of the Appendix.**<br>(1) ***Content.*** The appendix must:<br>(A) begin with a table of contents identifying the page at which each part begins~~.~~ ;<br>(B) put the~~The~~ relevant docket entries ~~must follow~~after the table of contents~~.~~ ;<br>(C) then put other ~~Other~~ parts of the record ~~must follow~~ chronologically~~. These provisions apply:~~;<br>(D) ~~***Page Numbers.***~~ when ~~When~~ transcript pages are ~~placed in the appendix~~included, show~~,~~ the transcript page numbers ~~must be shown~~ in brackets immediately before the included pages~~.~~; and<br>(E) ~~***Omissions.*** Omissions~~indicate omissions from the text of a document or of the transcript ~~must be indicated~~ by asterisks.<br>(2) ***Immaterial Formal Matters***. The appendix should not include ~~Immaterial~~ immaterial formal matters, such as ~~(~~captions, subscriptions, and acknowledgments~~, and the like)~~. |
| (d) EXHIBITS. Exhibits designated for inclusion in the appendix may be reproduced in a separate volume or volumes, suitably indexed. | **(d) ~~Reproduction of~~ Reproducing Exhibits.** Exhibits designated for inclusion in the appendix may be reproduced in a separate volume or volumes, suitably indexed. |

| ORIGINAL | REVISION |
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| (e) APPEAL ON THE ORIGINAL RECORD WITHOUT AN APPENDIX. The district court or BAP may, either by rule for all cases or classes of cases or by order in a particular case, dispense with the appendix and permit an appeal to proceed on the original record, with the submission of any relevant parts of the record that the district court or BAP orders the parties to file. | **(e) Appeal on the Original Record Without an Appendix.** The district court or BAP may, either by rule for all cases or classes of cases or by order in a particular case:<br>(1) dispense with the appendix~~.~~; and<br>(2) permit an appeal to proceed on the original record with the submission of any relevant parts that the district court or BAP orders the parties to file. |

**Committee Note**

The language of Rule 8018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 8018(a)(3) the phrase "good cause" was changed to "cause."

- In (b)(1)(B) a comma was inserted after the word "answer."

- In (b)(3) a comma was removed following the word "cross-appeal."

- Rule 8018(c) was reformatted to create a subsection (1) and (2). In (1) we placed the bulk of the text in the opening paragraph into a list of required elements in the Appendix. Subsection (2) deals with immaterial formal matters. Various other stylistic changes were made.

- The heading of Rule 8018(d) was changed from "Reproduction of Exhibits" to "Reproducing Exhibits".

- In (e)(1), the comma after "appendix" was changed to a semi-colon.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC noted that the phrase "good cause" appears in Rule 8018(a)(3) and other instances of that phrase were changed to "cause."

***Response***: Change was made throughout.

The NBC suggested changing the titles of Rule 8018(b)(2) and (b)(3), because there is no "duty" imposed by the text on either party. They suggested changing the titles to "Appellee's Appendix" and "Cross-Appellee's Appendix".

***Response:*** Suggestion accepted.

| ORIGINAL | REVISION |
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| **Rule 8018.1. District-Court Review of a Judgment that the Bankruptcy Court Lacked the Constitutional Authority to Enter** | **Rule 8018.1. Reviewing a Judgment That the Bankruptcy Court Lacked Authority to Enter** |
| If, on appeal, a district court determines that the bankruptcy court did not have the power under Article III of the Constitution to enter the judgment, order, or decree appealed from, the district court may treat it as proposed findings of fact and conclusions of law. | If, on appeal, a district court determines that the bankruptcy court did not have authority under Article III of the Constitution to enter the judgment, order, or decree being appealed, the district court may treat it as proposed findings of fact and conclusions of law. |

**Committee Note**

The language of Rule 8018.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that the word "authority" in Rule 8018.1 should be changed to "power" (with a corresponding change to the title) because Article III of the U.S. Constitution refers to the "judicial Power of the United States."

> ***Response***: In Stern v. Marshall, 564 U.S. 462 ((2011) Chief Justice Roberts consistently uses the term constitutional "authority." The holding of ***Stern*** is described by using that term in Executive Benefits Insurance Agency v. Arkison, 573 U.S. 25 (2014) which gave rise to the adoption of this Rule. The concept of judicial power and judicial authority under Article III are interchangeable. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 8019. Oral Argument** | **Rule 8019. Oral Argument** |
| (a) PARTY'S STATEMENT. Any party may file, or a district court or BAP may require, a statement explaining why oral argument should, or need not, be permitted. | **(a) Party's Statement.** Any party may file, or a district court or BAP may require, a statement explaining why oral argument should, or need not, be permitted. |
| (b) PRESUMPTION OF ORAL ARGUMENT AND EXCEPTIONS. Oral argument must be allowed in every case unless the district judge—or all the BAP judges assigned to hear the appeal—examine the briefs and record and determine that oral argument is unnecessary because<br>(1) the appeal is frivolous;<br>(2) the dispositive issue or issues have been authoritatively decided; or<br>(3) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument. | **(b) Presumption of Oral Argument; Exceptions.** Oral argument must be allowed in every case unless the district judge—or ~~all the~~each BAP judge~~s~~ assigned to hear the appeal—examines the briefs and record and determines that oral argument is unnecessary because:<br>(1) the appeal is frivolous;<br>(2) the dispositive issue or issues have been authoritatively decided; or<br>(3) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument. |
| (c) NOTICE OF ARGUMENT; POSTPONEMENT. The district court or BAP must advise all parties of the date, time, and place for oral argument, and the time allowed for each side. A motion to postpone the argument or to allow longer argument must be filed reasonably in advance of the hearing date. | **(c) Notice of Oral Argument; Motion to Postpone.** The district court or BAP must advise all parties of the date, time, and place for oral argument~~,~~ and the time allowed for each side. A motion to postpone the argument or to allow longer argument must be filed reasonably before the hearing date. |
| (d) ORDER AND CONTENTS OF ARGUMENT. The appellant opens and concludes the argument. Counsel must not read at length from briefs, the record, or authorities. | **(d) Order and Content of the Argument.** The appellant opens and concludes the argument. Counsel must not read at length from briefs, the record, or authorities. |

| ORIGINAL | REVISION |
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| (e) CROSS-APPEALS AND SEPARATE APPEALS. If there is a cross-appeal, Rule 8016(b) determines which party is the appellant and which is the appellee for the purposes of oral argument. Unless the district court or BAP directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued. Separate parties should avoid duplicative argument. | **(e) Cross-Appeals and Separate Appeals.** If there is a cross-appeal, Rule 8016(b) determines which party is the appellant and which is the appellee for the purposes of oral argument. Unless the district court or BAP orders otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued. Separate parties should avoid duplicative argument. |
| (f) NONAPPEARANCE OF A PARTY. If the appellee fails to appear for argument, the district court or BAP may hear the appellant's argument. If the appellant fails to appear for argument, the district court or BAP may hear the appellee's argument. If neither party appears, the case will be decided on the briefs unless the district court or BAP orders otherwise. | **(f) Nonappearance of a Party.** If the appellee fails to appear for argument, the district court or BAP may hear the appellant's argument. If the appellant fails to appear for argument, the district court or BAP may hear the appellee's argument. If neither party appears, the case will be decided on the briefs unless the district court or BAP orders otherwise. |
| (g) SUBMISSION ON BRIEFS. The parties may agree to submit a case for decision on the briefs, but the district court or BAP may direct that the case be argued. | **(g) Submission on Briefs.** The parties may agree to submit a case for decision on the briefs, but the district court or BAP may order that the case be argued. |
| (h) USE OF PHYSICAL EXHIBITS AT ARGUMENT; REMOVAL. Counsel intending to use physical exhibits other than documents at the argument must arrange to place them in the courtroom on the day of the argument before the court convenes. After the argument, counsel must remove the exhibits from the courtroom unless the district court or BAP directs otherwise. The clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. | **(h) Use of Physical Exhibits at Argument; Removal.** ~~Any~~ An attorney intending to use physical exhibits other than documents at the argument must arrange to place them in the courtroom on the day of the argument before the court convenes. After the argument, ~~counsel~~ the attorney must remove the exhibits from the courtroom unless the district court or BAP orders otherwise. The clerk may destroy or dispose of them if ~~counsel~~ the attorney does not reclaim them within a reasonable time after the clerk gives notice to do so. |

**Committee Note**

The language of Rule 8019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 8019(b) the phrase "all BAP judges" was changed to "each BAP judge".
- A comma was deleted after the words "oral argument" in the text of (c).
- In the title to (d), the word "the" was inserted before the word "Argument."
- in (h), the word "Any" at the beginning of the text was changed to "An" and the two usages of the word "counsel" were changed to "the attorney".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests that Rule 8019(b) be modified to avoid mixing singular and plural forms in the main sentence by changing "all BAP judges" to "each BAP judge."

> ***Response:*** Suggested accepted.

In the last sentence of Rule 8019(h) the NBC thinks the word "them" is ambiguous. They suggest using "the exhibits."

> ***Response:*** The entirety of Rule 8019(h) is about physical exhibits. The immediately prior sentence imposes a duty on the attorney to remove the exhibits after argument. The sentence at issue allows the clerk to dispose of "them" (the exhibits) if they are not reclaimed. There is nothing else the term "them" could refer to. No change was made in response to this comment.

| ORIGINAL | REVISION |
|---|---|
| **Rule 8020. Frivolous Appeal and Other Misconduct** | **Rule 8020. Frivolous Appeal; Other Misconduct** |
| (a) FRIVOLOUS APPEAL—DAMAGES AND COSTS. If the district court or BAP determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee. | **(a) Frivolous Appeal~~—~~; Damages and Costs.** If the district court or BAP determines that an appeal is frivolous, ~~it may,~~then after a separate~~ly~~ ~~filed~~ motion is filed or the court gives notice ~~from the court~~ and a reasonable opportunity to respond, it may award just damages and single or double costs to the appellee. |
| (b) OTHER MISCONDUCT. The district court or BAP may discipline or sanction an attorney or party appearing before it for other misconduct, including failure to comply with any court order. First, however, the court must afford the attorney or party reasonable notice, an opportunity to show cause to the contrary, and, if requested, a hearing. | **(b) Other Misconduct; Sanctions.** The district court or BAP may discipline or sanction an attorney or party appearing before it for other misconduct, including a failure to comply with a court order. But the court must first give the attorney or party reasonable notice and an opportunity to show cause to the contrary—and if requested, grant a hearing. |

**Committee Note**

The language of Rule 8020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In the heading of Rule 8020(a), the dash was replaced with a semi-colon. In the text of Rule 8020(a) the words "it may," were replaced with the word "then", the phrase "separately filed motion or notice from the court" was replaced with "separate motion is filed or the court gives notice", the word "a" was inserted before "reasonable opportunity to response" and the words "it may" were inserted before the word "award."

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 8021. Costs** | **Rule 8021. Costs** |
| (a) AGAINST WHOM ASSESSED. The following rules apply unless the law provides or the district court or BAP orders otherwise:<br>(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;<br>(2) if a judgment, order, or decree is affirmed, costs are taxed against the appellant;<br>(3) if a judgment, order, or decree is reversed, costs are taxed against the appellee;<br>(4) if a judgment, order, or decree is affirmed or reversed in part, modified, or vacated, costs are taxed only as the district court or BAP orders. | **(a) Against Whom Assessed.** The following rules apply unless the law provides or the district court or BAP orders otherwise:<br>(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;<br>(2) if a judgment~~, order, or decree~~ is affirmed, costs are taxed against the appellant;<br>(3) if a judgment~~, order, or decree~~ is reversed, costs are taxed against the appellee;<br>(4) if a judgment~~, order, or decree~~ is affirmed or reversed in part, modified, or vacated, costs are taxed only as the district court or BAP orders. |
| (b) COSTS FOR AND AGAINST THE UNITED STATES. Costs for or against the United States, its agency, or its officer may be assessed under subdivision (a) only if authorized by law. | **(b) Costs For and Against the United States.** Costs for or against the United States, its agency, or its officer may be assessed under (a) only if authorized by law. |
| (c) COSTS ON APPEAL TAXABLE IN THE BANKRUPTCY COURT. The following costs on appeal are taxable in the bankruptcy court for the benefit of the party entitled to costs under this rule:<br>(1) the production of any required copies of a brief, appendix, exhibit, or the record; | **(c) Costs on Appeal Taxable in the Bankruptcy Court.** The following costs on appeal are taxable in the bankruptcy court for the benefit of the party entitled to costs under this rule:<br>(1) producing any required copies of a brief, appendix, exhibit, or the record;<br>(2) preparing and sending the record;<br>(3) the reporter's transcript, if needed to determine the appeal; |

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| (2) the preparation and transmission of the record;<br><br>(3) the reporter's transcript, if needed to determine the appeal;<br><br>(4) premiums paid for a bond or other security to preserve rights pending appeal; and<br><br>(5) the fee for filing the notice of appeal. | (4) premiums paid for a bond or other security to preserve rights pending appeal; and<br><br>(5) the fee for filing the notice of appeal. |
| (d) BILL OF COSTS; OBJECTIONS. A party who wants costs taxed must, within 14 days after entry of judgment on appeal, file with the bankruptcy clerk and serve an itemized and verified bill of costs. Objections must be filed within 14 days after service of the bill of costs, unless the bankruptcy court extends the time. | **(d) Bill of Costs; Objections.** A party who wants costs taxed must, within 14 days after ~~entry of~~a judgment on appeal is entered, file with the bankruptcy clerk and serve an itemized and verified bill of costs. Objections must be filed within 14 days after the bill of costs is served, unless the bankruptcy court extends the time. |

**Committee Note**

The language of Rule 8021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 8021(a)(2), (3) and (4) the phrase "judgment, order, or decree" has been replaced with the word "judgment" because the definition of "judgment" includes appealable orders.

• In Rule 8021(d) the phrase "entry of judgment on appeal" was replaced with "a judgment on appeal is entered."

**Summary of Public Comment**

**• Jeffrey Cozad (BK-202200002-0010)**

Mr. Cozad suggested that the word "taxed" in rule 8021(a)(1) should be changed to "awarded".

> ***Response***: rule 8021(a)(1) is modeled on Fed. R. App. P. 39(a)(1), which uses the word "taxed". No change was made in response to this comment.

Mr. Cozad also suggested that the word "assessed" in Rule 8021(b) be changed to "awarded".

***Response***: Rule 8021(b) is modeled on Fed. R. App. P. 39(b), which uses the word "assessed". No change was made in response to this comment.

In Rule 8021(a)(2), (a)(3) and (a)(4), the introductory phrase is "if a judgment, order, or decree". He questioned the inclusion of the word "decree", and whether there are any circumstances under which a decree could be entered or affirmed or reversed.

***Response:*** The NBC made a general comment about the use of this phrase, and in this instance the comparable provisions of Fed. R. App. P. 39(a)(2)-(4) use only the word "judgment". "Judgment" is defined to include any appealable order in Rule 9001(7). Both for conformity and because it has no substantive impact, we have replaced "judgment, order, or decree" with "judgment."

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| **Rule 8022. Motion for Rehearing** | **Rule 8022. Motion for Rehearing** |
| (a) TIME TO FILE; CONTENTS; RESPONSE; ACTION BY THE DISTRICT COURT OR BAP IF GRANTED.<br><br>(1) *Time.* Unless the time is shortened or extended by order or local rule, any motion for rehearing by the district court or BAP must be filed within 14 days after entry of judgment on appeal.<br><br>(2) *Contents.* The motion must state with particularity each point of law or fact that the movant believes the district court or BAP has overlooked or misapprehended and must argue in support of the motion. Oral argument is not permitted.<br><br>(3) *Response.* Unless the district court or BAP requests, no response to a motion for rehearing is permitted. But ordinarily, rehearing will not be granted in the absence of such a request.<br><br>(4) *Action by the District Court or BAP.* If a motion for rehearing is granted, the district court or BAP may do any of the following:<br><br>(A) make a final disposition of the appeal without reargument;<br><br>(B) restore the case to the calendar for reargument or resubmission; or<br><br>(C) issue any other appropriate order. | **(a) Time to File; Content; Response; Action by the District Court or BAP If Granted.**<br><br>(1) ***Time.*** Unless the time is shortened or extended by order or local rule, any motion for rehearing by the district court or BAP must be filed within 14 days after a judgment on appeal is entered.<br><br>(2) ***Content.*** The motion must state with particularity each point of law or fact that the movant believes the district court or BAP has overlooked or misapprehended and must argue in support of the motion. ~~Oral argument is not permitted.~~<br><br>(3) ***Response.*** Unless the district court or BAP requests, no response to a motion for rehearing is permitted. But ordinarily, rehearing will not be granted ~~in the absence of~~without such a request.<br><br>(4) ***No Oral Argument.*** Oral argument is not permitted.<br><br>~~(3)~~(5) ***Action by the District Court or BAP.*** If a motion for rehearing is granted, the district court or BAP may do any of the following:<br><br>(A) make a final disposition of the appeal without reargument;<br><br>(B) restore the case to the calendar for reargument or resubmission; or<br><br>(C) issue any other appropriate order. |

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| (b) FORM OF THE MOTION; LENGTH. The motion must comply in form with Rule 8013(f)(1) and (2). Copies must be served and filed as provided by Rule 8011. Except by the district court's or BAP's permission:<br>(1) a motion for rehearing produced using a computer must include a certificate under Rule 8015(h) and not exceed 3,900 words; and<br>(2) a handwritten or typewritten motion must not exceed 15 pages. | **(b) Form; Length.** ~~The~~ A motion for rehearing must comply in form with Rule 8013(f)(1) and (2). Copies must be served and filed as Rule 8011 provides. Except by the district court's or BAP's permission:<br>(1) a motion produced using a computer must include a certificate under Rule 8015(h) and not exceed 3,900 words; and<br>(2) a handwritten or typewritten motion must not exceed 15 pages. |

**Committee Note**

The language of Rule 8022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 8022(a)(1) the word "a" was inserted before "judgment".

- In (a)(2) the last sentence was deleted and a new (a)(4) was inserted called "No Oral Argument" with the text "Oral argument is not permitted." Former (a)(4) has been renumbered (a)(5).

- In (a)(3) the words "in the absence of" were replaced with "without".

- The first word of (b) has been changed from "The" to "A".

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 8023. Voluntary Dismissal** | **Rule 8023. Voluntary Dismissal** |
| (a) STIPULATED DISMISSAL. The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any court fees that are due. | **(a) Stipulated Dismissal.** The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any court fees that are due. |
| (b) APPELLANT'S MOTION TO DISMISS. An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP. | **(b) Appellant's Motion to Dismiss.** An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP. |
| (c) OTHER RELIEF. A court order is required for any relief beyond the mere dismissal of an appeal—including approving a settlement, vacating an action of the bankruptcy court, or remanding the case to it. | **(c) Other Relief.** A court order is required for any relief beyond the mere dismissal of an appeal—including approving a settlement, vacating an action of the bankruptcy court, or remanding the case to it. |
| (d) COURT APPROVAL. This rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration. | **(d) Court Approval.** This rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration. |

**Committee Note**

The language of Rule 8023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 8024. Clerk's Duties on Disposition of the Appeal** | **Rule 8024. Clerk's Duties on Disposition of the Appeal** |
| (a) JUDGMENT ON APPEAL. The district or BAP clerk must prepare, sign, and enter the judgment after receiving the court's opinion or, if there is no opinion, as the court instructs. Noting the judgment on the docket constitutes entry of judgment. | **(a) Preparing the Judgment.** After receiving the court's opinion—or instructions if there is no opinion—the district or BAP clerk must:<br>(1) prepare and sign the judgment; and<br>(2) note it on the docket, which act constitutes entry of judgment. |
| (b) NOTICE OF A JUDGMENT. Immediately upon the entry of a judgment, the district or BAP clerk must:<br>(1) transmit a notice of the entry to each party to the appeal, to the United States trustee, and to the bankruptcy clerk, together with a copy of any opinion; and<br>(2) note the date of the transmission on the docket. | **(b) Giving Notice of the Judgment.** Immediately after ~~entering~~ a judgment is entered, the district or BAP clerk must:<br>(1) send notice of its entry, together with a copy of any opinion, to:<br>• the parties to the appeal;<br>• the United States trustee; and<br>• the bankruptcy clerk; and<br>(2) note on the docket the date the notice was sent. |
| (c) RETURNING PHYSICAL ITEMS. If any physical items were transmitted as the record on appeal, they must be returned to the bankruptcy clerk on disposition of the appeal. | **(c) Returning Physical Items.** On disposition of the appeal, the district or BAP clerk must return to the bankruptcy clerk any physical items sent as the record on appeal. |

**Committee Note**

The language of Rule 8024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 8024(b) the phrase "entering a judgment" was replaced with "a judgment is entered".

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 8025. Stay of a District Court or BAP Judgment** | **Rule 8025. Staying a District Court or BAP Judgment** |
| (a) AUTOMATIC STAY OF JUDGMENT ON APPEAL. Unless the district court or BAP orders otherwise, its judgment is stayed for 14 days after entry. | **(a) Automatic Stay of a Judgment on Appeal.** Unless the district court or BAP orders otherwise, its judgment is stayed for 14 days after its entry. |
| (b) STAY PENDING APPEAL TO THE COURT OF APPEALS.<br><br>(1) *In General.* On a party's motion and notice to all other parties to the appeal, the district court or BAP may stay its judgment pending an appeal to the court of appeals.<br><br>(2) *Time Limit.* The stay must not exceed 30 days after the judgment is entered, except for cause shown.<br><br>(3) *Stay Continued.* If, before a stay expires, the party who obtained the stay appeals to the court of appeals, the stay continues until final disposition by the court of appeals.<br><br>(4) *Bond or Other Security.* A bond or other security may be required as a condition for granting or continuing a stay of the judgment. A bond or other security may be required if a trustee obtains a stay, but not if a stay is obtained by the United States or its officer or agency or at the direction of any department of the United States government. | **(b) Stay Pending an Appeal to ~~a~~ the United States Court of Appeals.**<br><br>(1) ***In General.*** On a party's motion with notice to all other parties to the appeal, ~~The~~ the district court or BAP may ~~on a party's motion with notice to all other parties to the appeal~~ stay its judgment pending an appeal to the court of appeals.<br><br>(2) ***Time Limit.*** Except for cause ~~shown~~, the stay must not exceed 30 days after the judgment is entered.<br><br>(3) ***Stay Continued When an Appeal Is Filed.*** If, before a stay expires, the party who obtained it appeals to a court of appeals, the stay continues until final disposition by the court of appeals.<br><br>(4) ***Bond or Other Security.*** A bond or other security may be required as a condition for granting or continuing a stay. If a trustee obtains a stay, a bond or other security may be required~~, but not~~. But neither is required if a stay is obtained by the United States or its officer or agency, or by direction of any department of the United States government. |
| (c) AUTOMATIC STAY OF AN ORDER, JUDGMENT, OR DECREE OF A BANKRUPTCY COURT. If the | **(c) Automatic Stay of ~~a~~ the Bankruptcy Court's Order, Judgment, or Decree.** If ~~a~~ the district court or BAP enters a judgment |

| ORIGINAL | REVISION |
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| district court or BAP enters a judgment affirming an order, judgment, or decree of the bankruptcy court, a stay of the district court's or BAP's judgment automatically stays the bankruptcy court's order, judgment, or decree for the duration of the appellate stay. | affirming ~~a~~the bankruptcy court's order, judgment, or decree, a stay of the district court's or BAP's judgment automatically stays the bankruptcy court's order, judgment, or decree ~~for the duration of~~while the appellate stay is in effect. |
| (d) POWER OF A COURT OF APPEALS NOT LIMITED. This rule does not limit the power of a court of appeals or any of its judges to do the following:<br>(1) stay a judgment pending appeal;<br>(2) stay proceedings while an appeal is pending;<br>(3) suspend, modify, restore, vacate, or grant a stay or an injunction while an appeal is pending; or<br>(4) issue any order appropriate to preserve the status quo or the effectiveness of any judgment to be entered. | **(d) Power of a Court of Appeals or ~~One of~~ Its Judges Not Limited.** This rule does not limit the power of a court of appeals or ~~one~~ any of its judges to:<br>(1) stay a judgment pending appeal;<br>(2) stay proceedings while an appeal is pending;<br>(3) suspend, modify, restore, vacate, or grant a stay or injunction while an appeal is pending; or<br>(4) issue any order appropriate to preserve the status quo or the effectiveness of any judgment that might be entered. |

**Committee Note**

The language of Rule 8025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In the heading of Rule 8025(b) the word "a" was changed to "the".

• In Rule 8025(b)(1), the phrase "on a party's motion with notice to all other parties to the appeal" was moved from after "BAP may" to the beginning of the paragraph.

• In (b)(2) the word "shown" after "cause" was deleted.

• In (b)(4) the last sentence was divided into two separate sentences and the words "But neither is required" were inserted at the beginning of the second of those sentences.

• In the heading to Rule 8025(c) the word "a" was changed to "the" and in the text the word "a" before "district court" and before "bankruptcy court's order" was changed to "the".

• In the title to Rule 8025(d) the words "One of" were deleted, and in the text the word "one" was changed to "any".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC expressed concern that in Rule 8025(b)(4) the position of the phrase "If a trustee obtains a stay" could indicate that the phase modifies the entire sentence, including the portion describing a stay obtained by the United States. They suggest breaking the sentence into two parts.

***Response***: Suggestion accepted.

The NBC suggests not changing the phrase "any of its judges" in Rule 8025(d) to "one of its judges" as the restyled rule does. They note that some courts of appeals might use motion panels with more than one judge.

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
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| **Rule 8026. Rules by Circuit Councils and District Courts; Procedure When There is No Controlling Law** | **Rule 8026. Making and Amending Local Rules; Procedure When There Is No Controlling Law** |
| (a) LOCAL RULES BY CIRCUIT COUNCILS AND DISTRICT COURTS.<br><br>(1) *Adopting Local Rules.* A circuit council that has authorized a BAP under 28 U.S.C. § 158(b) may make and amend rules governing the practice and procedure on appeal from a judgment, order, or decree of a bankruptcy court to the BAP. A district court may make and amend rules governing the practice and procedure on appeal from a judgment, order, or decree of a bankruptcy court to the district court. Local rules must be consistent with, but not duplicative of, Acts of Congress and these Part VIII rules. Rule 83 F.R.Civ.P. governs the procedure for making and amending rules to govern appeals.<br><br>(2) *Numbering.* Local rules must conform to any uniform numbering system prescribed by the Judicial Conference of the United States.<br><br>(3) *Limitation on Imposing Requirements of Form.* A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply. | **(a) Local Rules.**<br><br>(1) ***Making and Amending Local Rules.***<br><br>(A) *BAP Local Rules.* A circuit council that has authorized a BAP under 28 U.S.C. § 158(b) may make and amend local rules governing the practice and procedure on appeal to the BAP from a bankruptcy court's judgment, order, or decree.<br><br>(B) *District-Court Local Rules.* A district court may make and amend local rules governing the practice and procedure on appeal to the district court from a bankruptcy court's judgment, order, or decree.<br><br>(C) *Procedure.* Fed. R. Civ. P. 83 governs the procedure for making and amending local rules. A local rule must be consistent with—but not duplicate—an Act of Congress and these Part VIII rules.<br><br>(2) ***Numbering.*** Local rules must conform to any uniform numbering system prescribed by the Judicial Conference of the United States.<br><br>(3) ***Limitation on Enforcing a Local Rule Relating to Form.*** A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply. |
| (b) PROCEDURE WHEN THERE IS NO CONTROLLING LAW.<br><br>(1) *In General.* A district court or BAP may regulate practice in any manner consistent with federal law, | **(b) Procedure When There Is No Controlling Law.** A judge may regulate practice in any manner consistent with federal law, these rules, the Official Forms, and the district's local rules. For any requirement set out elsewhere, a |

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| applicable federal rules, the Official Forms, and local rules.<br><br>(2) *Limitation on Sanctions.* No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, applicable federal rules, the Official Forms, or local rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement. | sanction or other disadvantage may be imposed for noncompliance only if the alleged violator was given actual notice of the requirement in the particular case.<br><br>~~(1) ***In General.*** A district court or BAP may regulate practice in any manner consistent with federal law, applicable federal rules, the official forms, and local rules.~~<br><br>~~(2) ***Limit on Imposing Sanctions.*** Unless an alleged violator has been given actual notice of a requirement in the particular case, no sanction or other disadvantage may be imposed for failing to comply with any requirement not in federal law, applicable federal rules, the official forms, or local rules.~~ |

**Committee Note**

The language of Rule 8026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The title to Rule 8026(a)(3) was modified to change the word "Limit" to "Limitation".

- Rule 8026(b) was replaced with language that is identical to Rule 9029(c) which covers the same topic in a different context.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 8027. Notice of a Mediation Procedure** | **Rule 8027. Notice of a Mediation Procedure** |
| If the district court or BAP has a mediation procedure applicable to bankruptcy appeals, the clerk must notify the parties promptly after docketing the appeal of:<br>(a) the requirements of the mediation procedure; and<br>(b) any effect the mediation procedure has on the time to file briefs. | If ~~a~~ the district court or BAP has a mediation procedure applicable to bankruptcy appeals, the clerk must, after docketing the appeal, promptly notify the parties ~~promptly after docketing the appeal~~ of:<br>(a) the requirements of the mediation procedure; and<br>(b) any effect ~~the mediation procedure~~it has on the time to file briefs. |

**Committee Note**

The language of Rule 8027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• Rule 8027 was modified by changing the word "a" before "district court" to "the" and by inserting the phrase ", after docketing the appeal, promptly" before the word "notify" and deleting the phrase "promptly after docketing the appeal" after the word "parties."

• In (b) the words "the mediation procedure" were replaced with "it".

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 8028. Suspension of Rules in Part VIII** | **Rule 8028. Suspending These Part VIII Rules** |
| In the interest of expediting decision or for other cause in a particular case, the district court or BAP, or where appropriate the court of appeals, may suspend the requirements or provisions of the rules in Part VIII, except Rules 8001, 8002, 8003, 8004, 8005, 8006, 8007, 8012, 8020, 8024, 8025, 8026, and 8028. | To expedite a decision or for other cause, a district court or BAP—or when appropriate, the court of appeals—may, in a particular case, suspend the requirements of these Part VIII rules—, except Rules 8001–8007, 8012, 8020, 8024–8026, and 8028. |

**Committee Note**

The language of Rule 8028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 8028 the dash after the phrase "Part VIII rules" was replaced with a comma.

**Summary of Public Comment**

- No comments were submitted.

# Bankruptcy Rules Restyling

## 9000 Series

| ORIGINAL | REVISION |
|---|---|
| PART IX—GENERAL PROVISIONS | **PART IX. GENERAL PROVISIONS** |
| **Rule 9001. General Definitions** | **Rule 9001. Definitions** |
| The definitions of words and phrases in §§ 101, 902, 1101, and 1502 of the Code, and the rules of construction in § 102, govern their use in these rules. In addition, the following words and phrases used in these rules have the meanings indicated:<br><br>(1) "Bankruptcy clerk" means a clerk appointed pursuant to 28 U.S.C. § 156(b).<br><br>(2) "Bankruptcy Code" or "Code" means title 11 of the United States Code.<br><br>(3) "Clerk" means bankruptcy clerk, if one has been appointed, otherwise clerk of the district court.<br><br>(4) "Court" or "judge" means the judicial officer before whom a case or proceeding is pending.<br><br>(5) "Debtor." When any act is required by these rules to be performed by a debtor or when it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, "debtor" includes, if designated by the court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control; (B) if the debtor is a partnership, "debtor" includes any or all of its general partners or, if designated by the court, any other person in control.<br><br>(6) "Firm" includes a partnership or professional corporation of attorneys or accountants.<br><br>(7) "Judgment" means any | **(a) In the Code.** The definitions of words and phrases in §§ 101, 902, 1101, and 1502 and the rules of construction in § 102 apply in these rules.<br><br>**(b) In These Rules.** In these rules, the following words and phrases have these meanings:<br><br>(1) "Bankruptcy clerk" means a clerk appointed under 28 U.S.C. § 156(b).<br><br>(2) ~~"Bankruptcy Code" or~~"Clerk" means a bankruptcy clerk if one has been appointed; otherwise, it means the district-court clerk.<br><br>~~(2)~~(3) "Code" means Title 11 ~~U.S.C.~~of the United States Code.<br><br>~~(3) "Clerk" means a bankruptcy clerk if one has been appointed; otherwise, it means the district clerk.~~<br><br>(4) "Court" or "judge" means the judicial officer who presides over the case or proceeding.<br><br>(5) "Debtor," when the debtor is not a natural person and either is required by these rules to perform an act or must ~~be compelled to~~ appear for examination, includes ~~any or all of the following~~:<br><br>(A) if the debtor is a corporation and if the court so designates:<br><br>• any or all of its officers, directors, trustees, or members of a similar controlling body;<br><br>• a controlling stockholder or member; or<br><br>• any other person in control; or<br><br>(B) if the debtor is a partnership: |

| ORIGINAL | REVISION |
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| appealable order.<br><br>(8) "Mail" means first class, postage prepaid.<br><br>(9) "Notice provider" means any entity approved by the Administrative Office of the United States Courts to give notice to creditors under Rule 2002(g)(4).<br><br>(10) "Regular associate" means any attorney regularly employed by, associated with, or counsel to an individual or firm.<br><br>(11) "Trustee" includes a debtor in possession in a chapter 11 case.<br><br>(12) "United States trustee" includes an assistant United States trustee and any designee of the United States trustee. | • any or all of its general partners; or<br><br>• if the court so designates, any other person in control.<br><br>(6) "Firm" includes a partnership or professional corporation of attorneys or accountants.<br><br>(7) "Judgment" means any appealable order.<br><br>(8) "Mail" means first-class mail, postage prepaid.<br><br>(9) "Notice provider" means an entity approved by the Administrative Office of the United States Courts to give notice to creditors under Rule 2002(g)(4).<br><br>(10) "Regular associate" means an attorney regularly employed by, associated with, or counsel to an individual or firm.<br><br>(11) "Trustee" includes a debtor in possession in a Chapter 11 case.<br><br>(12) "United States trustee" includes ~~any~~ an assistant United States trustee and a United States trustee's designee. |

**Committee Note**

The language of Rule 9001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 9001(b)(2) the definition of Bankruptcy Code was deleted because it is never used. Under Rule 1001(c) any section number is a reference to a section of the Bankruptcy Code (defined in Rule 1001(a)). Because of the deletion, the definition of "Clerk" was moved from (b)(3) to (b)(2).

• In Rule 9001(b)(5) the words "be compelled to" and "any or all of the following" were removed.

• In Rule 9001(b)(12), the work "any" was changed to "an" and the word "a" was inserted before "United States trustee's designee."

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggest that Rule 9001(b)(2) use the same description of Title 11 as is used in Rule 1001(a), that is, Title 11 of the United States Code.

> ***Response:*** Suggestion accepted.

In Rule 9001(b)(4) the NBC suggested adding the word "bankruptcy" before "case" because there might be confusion if the claim or cause of action has been removed.

> ***Response***: It is precisely because a bankruptcy case or cause of action may be heard in a court other than a bankruptcy court (upon removal, appeal, etc.) that this definition is written the way it is. There can be only one judicial officer presiding over a case or proceeding at a time. No change was made in response to this comment.

In Rule 9001(b)(5) the NBC suggests some unnecessary language be deleted.

> ***Response***: Suggestion accepted.

**• Jeffrey Cozad (BK-2022-0002-0010)**

Mr. Cozad suggests changing the definition of "mail" in Rule 9001(b)(8) to add "any other class of mail that is just as expeditious" and "dispatched to a third-party commercial carrier for delivery within 3 days."

> ***Response***: This is a substantive change. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9002. Meanings of Words in the Federal Rules of Civil Procedure When Applicable to Cases Under the Code** | **Rule 9002. Meaning of Words in the Federal Rules of Civil Procedure** |
| The following words and phrases used in the Federal Rules of Civil Procedure made applicable to cases under the Code by these rules have the meanings indicated unless they are inconsistent with the context:<br><br>(1) "Action" or "civil action" means an adversary proceeding or, when appropriate, a contested petition, or proceedings to vacate an order for relief or to determine any other contested matter.<br><br>(2) "Appeal" means an appeal as provided by 28 U.S.C. § 158.<br><br>(3) "Clerk" or "clerk of the district court" means the court officer responsible for the bankruptcy records in the district.<br><br>(4) "District Court," "trial court," "court," "district judge," or "judge" means bankruptcy judge if the case or proceeding is pending before a bankruptcy judge.<br><br>(5) "Judgment" includes any order appealable to an appellate court. | Unless they are inconsistent with the context, the following words and phrases in the Federal Rules of Civil Procedure—when made applicable by these rules—have these meanings:<br><br>(a) "Action" or "civil action" means an adversary proceeding or, when appropriate:<br><br>(1) a contested petition;<br><br>(2) a proceeding to vacate an order for relief; or<br><br>(3) a proceeding to determine any other contested matter.<br><br>(b) "Appeal" means an appeal under 28 U.S.C. § 158.<br><br>(c) "Clerk" or "clerk of the district court" means the officer responsible for maintaining the district's bankruptcy records.<br><br>(d) "District court," "trial court," "court," "district judge," or "judge" means "bankruptcy judge" if the case or proceeding is pending before a bankruptcy judge.<br><br>(e) "Judgment" includes any appealable order. |

**Committee Note**

The language of Rule 9002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9002(d) the quotation marks are removed around the words "bankruptcy judge."

The word "an" in Rule 9002(e) is changed to "any" to conform to Rule 9001(7).

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests that the em dashes in the introduction of Rule 9002 be changed to commas.

> ***Response***: This is a matter of style, and on style we defer to the decisions of the style consultants.

In Rule 9002(d) the NBC suggests deleting the quotation marks around "bankruptcy judge."

> ***Response***: Suggestion accepted.

In Rule 9002(e), the NBC suggests that "an" should be "any" to conform to Rule 9001(7).

> ***Response***: Suggestion accepted.

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| **Rule 9003. Prohibition of Ex Parte Contacts** | **Rule 9003. Ex Parte Contacts Prohibited** |
| (a) GENERAL PROHIBITION. Except as otherwise permitted by applicable law, any examiner, any party in interest, and any attorney, accountant, or employee of a party in interest shall refrain from ex parte meetings and communications with the court concerning matters affecting a particular case or proceeding. | **(a) In General.** Unless permitted by applicable law, the following persons must refrain from ex parte meetings and communications with the court about matters affecting a particular case or proceeding:<br>• an examiner;<br>• a party in interest~~:~~;<br>• a party in interest's attorney, accountant, or employee; and<br>• the United States trustee and any of its assistants, agents, or employees. |
| (b) UNITED STATES TRUSTEE. Except as otherwise permitted by applicable law, the United States trustee and assistants to and employees or agents of the United States trustee shall refrain from ex parte meetings and communications with the court concerning matters affecting a particular case or proceeding. This rule does not preclude communications with the court to discuss general problems of administration and improvement of bankruptcy administration, including the operation of the United States trustee system. | **(b) Exception for a United States Trustee.** A United States trustee and any of its assistants, agents, or employees are not prohibited from communicating with the court about general administrative problems and improving ~~of~~ bankruptcy administration ~~and how to improve it~~ — including the operation of the United States trustee system. |

**Committee Note**

The language of Rule 9003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 9003(b) the phrase "general problems of bankruptcy administration and how to improve it" was replaced with "general administrative problems and improving bankruptcy

administration".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests inserting the word "agents" after "accountant" in the third bullet point of Rule 9003(a), noting the word is included in (b).

> ***Response***: This would be a substantive change. No change was made in response to this suggestion.

The NBC made a drafting suggestion on Rule 9003(b) that would remove the need to use "it".

> ***Response:*** Suggestion accepted.

The NBC suggested replacing the em dash in (b) with a comma.

> ***Response***: This is a matter of style, and on style we defer to the style consultants.

| ORIGINAL | REVISION |
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| **Rule 9004. General Requirements of Form** | **Rule 9004. General Requirements of Form** |
| (a) LEGIBILITY; ABBREVIATIONS. All petitions, pleadings, schedules and other papers shall be clearly legible. Abbreviations in common use in the English language may be used. | **(a) Legibility; Abbreviations.** A petition, pleading, schedule, or other document must be clearly legible. ~~An~~ Commonly used English abbreviations ~~commonly used in English is~~ are acceptable. |
| (b) CAPTION. Each paper filed shall contain a caption setting forth the name of the court, the title of the case, the bankruptcy docket number, and a brief designation of the character of the paper. | **(b) Caption.** ~~To be filed, a~~A document presented for filing must contain a caption that sets forth:<br>(1) the court's name;<br>(2) the case's title;<br>(3) the case number and, if appropriate, adversary-proceeding number; and<br>(4) a brief designation of the document's character. |

**Committee Note**

The language of Rule 9004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The second sentence of Rule 9004(a) was rewritten to be more clear.

- The initial phrase in Rule 9004(b) was changed from "To be filed, a document" to "A document presented for filing".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested drafting the second sentence of Rule 9004(a).

***Response***: Suggestion accepted with slight modifications.

The NBC suggested changing the initial phrase of Rule 9004(b) from "to be filed, a" to "A filed" to avoid the implication that a document is not deemed to be filed if it has an error in the caption.

***Response***: The language has been modified.

- **Jeffrey Cozad (BK-2022-0002-0010)**

Mr. Cozad agreed with NBC that the language at the beginning of Rule 9004(b) ("To be filed") could be interpreted to require the clerk to reject a document presented for filing if the caption is deficient. He provided alternative language.

***Response***: The language has been modified.

| ORIGINAL | REVISION |
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| **Rule 9005. Harmless Error** | **Rule 9005. Harmless Error** |
| Rule 61 F.R.Civ.P. applies in cases under the Code. When appropriate, the court may order the correction of any error or defect or the cure of any omission which does not affect substantial rights. | Fed. R. Civ. P. 61 applies in a bankruptcy case. When appropriate, the court may order the correction of any error or defect—or the cure of any omission—that does not affect a substantial right~~s~~. |

**Committee Note**

The language of Rule 9005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The word "a" was inserted before the word "substantial" and the word "rights" was changed to "right".

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 9005.1. Constitutional Challenge to a Statute—Notice, Certification, and Intervention** | **Rule 9005.1. Constitutional Challenge to a Statute—Notice, Certification, and Intervention** |
| Rule 5.1 F.R.Civ.P. applies in cases under the Code. | Fed. R. Civ. P. 5.1 applies in a bankruptcy case. |

**Committee Note**

The language of Rule 9005.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 9006. Computing and Extending Time; Time for Motion Papers** | **Rule 9006. Computing and Extending Time; Motions** |
| (a) COMPUTING TIME. The following rules apply in computing any time period specified in these rules, in the Federal Rules of Civil Procedure, in any local rule or court order, or in any statute that does not specify a method of computing time.<br><br>(1) *Period Stated in Days or a Longer Unit*. When the period is stated in days or a longer unit of time:<br><br>(A) exclude the day of the event that triggers the period;<br><br>(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and<br><br>(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.<br><br>(2) *Period Stated in Hours*. When the period is stated in hours:<br><br>(A) begin counting immediately on the occurrence of the event that triggers the period;<br><br>(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and<br><br>(C) if the period would end on a Saturday, Sunday, or legal holiday, then continue the period until the same time on the next day that is not a Saturday, Sunday, or legal holiday.<br><br>(3) *Inaccessibility of Clerk's Office.* Unless the court orders otherwise, if the | **(a) Computing Time.** The following rules apply in computing any time period specified in these rules, in the Federal Rules of Civil Procedure, in any local rule or court order, or in any statute that does not specify a method of computing time.<br><br>(1) ***Period Stated in Days or a Longer Unit.*** When the period is stated in days or a longer unit of time:<br><br>(A) exclude the day of the event that triggers the period;<br><br>(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and<br><br>(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.<br><br>(2) ***Period Stated in Hours.*** When the period is stated in hours:<br><br>(A) begin counting immediately on the occurrence of the event that triggers the period;<br><br>(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and<br><br>(C) if the period would end on a Saturday, Sunday, or legal holiday, then continue the period until the same ~~hour~~ time on the next day that is not a Saturday, Sunday, or legal holiday.<br><br>(3) ***Inaccessibility of the Clerk's Office When a Filing Is Due.*** Unless the court orders otherwise, if the clerk's |

| ORIGINAL | REVISION |
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| clerk's office is inaccessible:<br><br>(A) on the last day for filing under Rule 9006(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or<br><br>(B) during the last hour for filing under Rule 9006(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.<br><br>(4) *"Last Day" Defined.* Unless a different time is set by a statute, local rule, or order in the case, the last day ends:<br><br>(A) for electronic filing, at midnight in the court's time zone; and<br><br>(B) for filing by other means, when the clerk's office is scheduled to close.<br><br>(5) *"Next Day" Defined.* The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.<br><br>(6) *"Legal Holiday" Defined.* "Legal holiday" means:<br><br>(A) the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Juneteenth Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day;<br><br>(B) any day declared a holiday by the President or Congress; and<br><br>(C) for periods that are measured after an event, any other day declared a holiday by the state where the | office is inaccessible:<br><br>(A) on the last day for filing under (1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or<br><br>(B) during the last hour for filing under (2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.<br><br>(4) ***"Last Day" Defined.*** Unless a different time is set by statute, local rule, or order in a case, the last day ends:<br><br>(A) for electronic filing, at midnight in the court's time zone; and<br><br>(B) for filing by other means, when the clerk's office is scheduled to close.<br><br>(5) ***"Next Day" Defined.*** The "next day" is determined by continuing to count forward when the period is measured after an event, and backward when measured before an event.<br><br>(6) ***"Legal Holiday" Defined.*** "Legal holiday" means:<br><br>(A) the day set aside by statute for observing New Year's Day, Birthday of Martin Luther King Jr., Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, ~~and~~ or Christmas Day;<br><br>(B) any day declared a holiday by the President or Congress; and<br><br>(C) for periods that are measured after an event, any other day declared a holiday by the ~~State~~ state where the district court is located. (In this |

| ORIGINAL | REVISION |
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| district court is located. (In this rule, "state" includes the District of Columbia and any United States commonwealth or territory.) | rule, "~~State~~state" includes the District of Columbia and any United States commonwealth or territory.) |
| (b) ENLARGEMENT.<br><br>(1) *In General.* Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.<br><br>(2) *Enlargement Not Permitted.* The court may not enlarge the time for taking action under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.<br><br>(3) *Enlargement Governed By Other Rules.* The court may enlarge the time for taking action under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 4008(a), 8002, and 9033, only to the extent and under the conditions stated in those rules. In addition, the court may enlarge the time to file the statement required under Rule 1007(b)(7), and to file schedules and statements in a small business case under § 1116(3) of the Code, only to the extent and under the conditions stated in Rule 1007(c). | **(b) Extending Time.**<br><br>(1) ***In General.*** This paragraph (1) applies when these rules, a notice given under these rules, or a court order requires or allows an act to be performed at or within a specified period. Except as provided in (2) and (3), the court may—at any time and for cause ~~shown~~—extend the time to act if:<br><br>(A) with or without a motion or notice, ~~the~~ a request to extend is made before the period (or a previously extended period) expires; or<br><br>(B) on motion made after the specified period expires, the failure to act within that period resulted from excusable neglect.<br><br>(2) ***Exceptions.*** The court must not extend the time to act under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.<br><br>(3) ***Extensions Governed by Other Rules.*** The court may extend the time to:<br><br>(A) act under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 4008(a), 8002, and 9033—but ~~only to the extent and under the conditions stated in~~only as permitted by those rules; and<br><br>(B) file the statement required by Rule 1007(b)(7), and the schedules and statements in a small business case under § 1116(3)—but only as permitted by Rule 1007(c). |

| ORIGINAL | REVISION |
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| (c) REDUCTION.<br><br>(1) *In General.* Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.<br><br>(2) *Reduction Not Permitted.* The court may not reduce the time for taking action under Rules 2002(a)(7), 2003(a), 3002(c), 3014, 3015, 4001(b)(2), (c)(2), 4003(a), 4004(a), 4007(c), 4008(a), 8002, and 9033(b). In addition, the court may not reduce the time under Rule 1007(c) to file the statement required by Rule 1007(b)(7). | **(c) Reducing Time ~~Limits~~.**<br><br>(1) ***When Permitted.*** When a rule, notice given under a rule, or court order requires or allows an act to be done within a specified time, the court may—for cause ~~shown~~ and with or without a motion or notice—reduce the ~~period~~ time ~~to act~~.<br><br>(2) ***When Not Permitted.*** The court may not reduce the time to act under Rule 2002(a)(7), 2003(a), 3002(c), 3014, 3015, 4001(b)(2) or (c)(2), 4003(a), 4004(a), 4007(c), 4008(a), 8002, or 9033(b). Also, the court may not~~,~~ ~~under Rule 1007(c),~~ reduce the time set by Rule 1007(c) to file the statement required by Rule 1007(b)(7). |
| (d) MOTION PAPERS. A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion. Except as otherwise provided in Rule 9023, any written response shall be served not later than one day before the hearing, unless the court permits otherwise. | **(d) Time to Serve a Motion and a Response.**<br><br>(1) ***In General.*** A written motion (other than one that may be heard ex parte) and notice of any hearing must be served at least 7 days before the hearing date, unless the court or these rules set a different period. Any affidavit supporting the motion must be served with it. An order to change the period may be granted for cause on ex parte ~~An~~ application ~~to change the period for service may be made ex parte for cause shown~~.<br><br>(2) ***Response.*** Except as provided in Rule 9023, any written response must be served at least 1 day before the hearing~~—~~, unless the court allows otherwise. |

| ORIGINAL | REVISION |
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| (e) TIME OF SERVICE. Service of process and service of any paper other than process or of notice by mail is complete on mailing. | **(e) Service Complete on Mailing.** Service by mail of process, any other document, or notice is complete upon mailing. |
| (f) ADDITIONAL TIME AFTER SERVICE BY MAIL OR UNDER RULE 5(b)(2)(D) OR (F) F.R.CIV.P. When there is a right or requirement to act or undertake some proceedings within a prescribed period after being served and that service is by mail or under Rule 5(b)(2)(D) (leaving with the clerk) or (F) (other means consented to) F.R.Civ.P., three days are added after the prescribed period would otherwise expire under Rule 9006(a). | **(f) Additional Time After Certain ~~Kinds of~~ Service.** When a party may or must act within a specified time after being served and service is made by mail or under Fed. R. Civ. P. 5(b)(2)(D) (leaving with the clerk) or (F) (other means consented to), 3 days are added after the period would otherwise expire under (a). |
| (g) GRAIN STORAGE FACILITY CASES. This rule shall not limit the court's authority under § 557 of the Code to enter orders governing procedures in cases in which the debtor is an owner or operator of a grain storage facility. | **(g) Grain-Storage Facility.** This rule does not limit the court's authority under § 557 to issue an order governing procedures in a case in which the debtor owns or operates a grain-storage facility. |

**Committee Note**

The language of Rule 9006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9006(a)(2)(C) the word "hour" is changed to "time."

- The words "Labor Day" were inserted in Rule 9006(a)(6)(A) before the words "Columbus Day" and the word "and" before "Christmas Day" was changed to "or".

- In Rule 9006(a)(6)(C) the two times the word "state" appears it is no longer capitalized.

- In the introductory language of Rule 9006(b)(1) the word "shown" is deleted after "cause".

- In Rule 9006(b)(1)(A) the words "the request" are replaced with "a request to extend".

• In Rule 9006(b)(3)(A) the words "to the extent and under the conditions stated in" were replaced with "as permitted by".

• The title of Rule 9006(c) is modified to eliminate the word "Limits".

• In Rule 9006(c)(1) the word "shown" is deleted after "cause" and the words "period to act" are replaced with the word "time".

• The phrase ", under Rule 1007(c), " in Rule 9006(c)(1) is eliminated and the words "set by Rule 1007(c) are inserted after the words "reduce the time".

• The heading of Rule 9006(d) is amended to add the words "and a Response".

• In Rule 9006(d)(1), the word "written" is inserted before "motion" and the last sentence is rewritten to be clearer.

• In Rule 9006(d)(2), the word "written" is inserted before "response" and the em dash is replaced with a comma.

• The title of Rule 9006(f) is modified to remove the words "Kinds of".

**Summary of Public Comment**

• **Aderant (BK-2022-0002-0008)**

Aderant submitted a comment suggesting that in Rule 9006(a)(6) on legal holidays there was repeated language listing Independence Day twice and omitting Labor Day. There is no repeated language; the first holiday using that language is "Juneteenth Independence Day" (June 19) and the second is "Independence Day" (July 4). The inadvertent omission of "Labor Day" has been corrected. ("Labor Day" was included in the version of the rule approved by the Standing Committee in June 2022.)

• **National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

NBC finds some of the usages of em dashes "Unnecessarily abrupt breaks" and suggests using commas.

> ***Response***: This is a matter of style, and we defer to the style consultants on matters of style. The style consultants decided to change the em dash in Rule 9006(d)(2) to a comma before receiving this comment. No change was made in response to this comment.

In Rule 9006(a)(2)(C), the NBC suggests replacing the word "hour" with "time" (used in the original rule) because "hour" might include any time during a sixty-minute period and would be a substantive change.

***Response***: Suggestion accepted.

NBC noted that Labor Day was missing in the list of holidays in (a)(6)(A).

***Response***: Corrected.

In Rule 9006(b)(1)(A), the NBC suggests that "the request" should be changed to "a request to extend" because there may be more than one, and because there is no prior mention of a request.

***Response***: Suggestion accepted.

The NBC suggests conforming the end of Rule 9006(b)(3)(B) with the end of Rule 9006(b)(3)(A) as in the original rule.

***Response***: Rule 9006(b)(3)(A) was conformed to (b)(3)(B).

The NBC suggests that the titles of Rule 9006(b) and (c) should be use parallel language.

***Response***: Suggestion accepted.

In Rule 9006(c)(1) the NBC suggests replacing the word "period" with "time" which is parallel to (c)(2). They also suggest eliminating the language "to act" at the end of the paragraph as unnecessary.

***Response***: Suggestion accepted.

The NBC suggests rewriting the final sentence of Rule 9006(c)(2). The action to reduce the time is not taken under Rule 1007(c); that is the section that specifies the time for filing the statement.

***Response***: The sentence has been rewritten.

In Rule 9006(d), the NBC suggests changing the title to "Time to Serve Papers" because the section deals with both Motions and Responses.

***Response***: The title has been changed to "Time to Serve a Motion and a Response."

The NBC objects to the deletion of the word "written" in Rule 9006(d)(1) and (d)(2) because the substance of those sections does not apply to routine oral motions and responses made during a hearing or trial.

***Response:*** Suggestion accepted.

The NBC finds the restyled version of the last sentence of Rule 9006(d)(1) confusing and suggests it be rewritten.

***Response***: The sentence has been rewritten.

In Rule 9006(f), the NBC suggests deleting the words "Kinds of" from the title.

***Response***: Suggestion accepted.

In Rule 9006(f), the NBC also suggests deleting the parenthetical descriptions after the references to FRCP 5(b)(2)(D) and (F) as "unnecessary."

***Response***: Although not necessary, they are in the existing rule and are helpful to those who do not know what the rules cover. No change was made in response to this comment.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9007. General Authority to Regulate Notices** | **Rule 9007. Authority to Regulate Notices.** |
| When notice is to be given under these rules, the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given. When feasible, the court may order any notices under these rules to be combined. | **(a) In General.** Unless these rules provide otherwise, when notice is to be given, the court must designate:<br>(1) the deadline for giving it;<br>(2) the entities to whom it must be given; and<br>(3) the form and manner of giving it.<br>**(b) Combined Notices**. When feasible, the court may order ~~any~~ notices under these rules to be combined. |

**Committee Note**

The language of Rule 9007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9007(b) the word "any" was deleted.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9008. Service or Notice by Publication** | **Rule 9008. Service or Notice by Publication** |
| Whenever these rules require or authorize service or notice by publication, the court shall, to the extent not otherwise specified in these rules, determine the form and manner thereof, including the newspaper or other medium to be used and the number of publications. | When these rules require or authorize service or notice by publication, and to the extent that they do not provide otherwise, the court must determine the form and manner of publication—including the newspaper or other medium to be used and the number of publications. |

**Committee Note**

The language of Rule 9008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC finds the use of the word "they" to be ambiguous and suggests it be changed to "these rules."

***Response***: The only plural reference in the rule is to "these rules" and that reference appears in the immediately preceding phrase so there is no ambiguity. No change was made in response to this comment.

The NBC suggests replacing the em dash with a comma.

***Response***: This is a matter of style and we defer to the style consultants on matters of style. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9009. Forms** | **Rule 9009. Using Official Forms; Director's Forms** |
| (a) OFFICIAL FORMS. The Official Forms prescribed by the Judicial Conference of the United States shall be used without alteration, except as otherwise provided in these rules, in a particular Official Form, or in the national instructions for a particular Official Form. Official Forms may be modified to permit minor changes not affecting wording or the order of presenting information, including changes that:<br><br>(1) expand the prescribed areas for responses in order to permit complete responses;<br><br>(2) delete space not needed for responses; or<br><br>(3) delete items requiring detail in a question or category if the filer indicates—either by checking "no" or "none" or by stating in words—that there is nothing to report on that question or category. | **(a) Official Forms.** The Official Forms prescribed by the Judicial Conference of the United States must be used without alteration—unless alteration is authorized by these rules, the form itself, or the national instructions for a particular ~~official~~ form. ~~An Official Form~~A form may be modified to permit minor changes not affecting wording or the order of presentation, including a change that:<br><br>(1) expands the prescribed response area to permit a complete response;<br><br>(2) deletes space not needed for a response; or<br><br>(3) deletes items requiring detail in a question or category if the filer indicates—either by checking "no" or "none," or by stating in words—that there is nothing to report on that item. |
| (b) DIRECTOR'S FORMS. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. | **(b) Director's Forms.** The Director of the Administrative Office of the United States Courts may issue additional forms. |
| (c) CONSTRUCTION. The forms shall be construed to be consistent with these rules and the Code. | **(c) Construing Forms.** The forms must be construed to be consistent with these rules and the Code. |

**Committee Note**

The language of Rule 9009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Changes Made After Publication and Comment**

• In Rule 9009(a) the phrase "particular official form" was changed to "particular form" and the phrase "An Official Form" was changed to "A form".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC questioned the references to the official forms in Rule 9009(a), finding them inconsistent with other references.

> ***Response***: Throughout the restyled rules, when an Official Bankruptcy Form is referred to by number, it is called "Form [ ]". See Rule 1001(d). In all other places (other than in Rule 1001) the Official Bankruptcy Forms are referred to as "Official Forms." The two lower-case references to a "form" in Rule 9009(a) are used because they are relating back to the "Official Forms" mentioned at the beginning of the first sentence. No change was made in response to this comment.

In the introductory clause of Rule 9009(a), the NBC suggests replacing the em dash with a comma.

> ***Response***: This is a matter of style, and on style was defer to the style consultants. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9010. Representation and Appearances; Powers of Attorney** | **Rule 9010. Authority to Act Personally or by an Attorney; Power of Attorney** |
| (a) AUTHORITY TO ACT PERSONALLY OR BY ATTORNEY. A debtor, creditor, equity security holder, indenture trustee, committee or other party may (1) appear in a case under the Code and act either in the entity's own behalf or by an attorney authorized to practice in the court, and (2) perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy. | **(a) In General.** A debtor, creditor, equity security holder, indenture trustee, committee, or other party may:<br>(1) appear in a case and act either on the entity's own behalf or through an attorney authorized to practice in the court; and<br>(2) perform ~~—through an authorized agent, attorney-in-fact, or proxy—~~ any act not constituting the practice of law, by an authorized agent, attorney-in-fact, or proxy. |
| (b) NOTICE OF APPEARANCE. An attorney appearing for a party in a case under the Code shall file a notice of appearance with the attorney's name, office address and telephone number, unless the attorney's appearance is otherwise noted in the record. | **(b) Attorney's Notice of Appearance.** An attorney appearing for a party in a case must file a notice of appearance ~~that contains~~containing the attorney's name, office address, and telephone number—unless the appearance is already noted in the record. |
| (c) POWER OF ATTORNEY. The authority of any agent, attorney in fact, or proxy to represent a creditor for any purpose other than the execution and filing of a proof of claim or the acceptance or rejection of a plan shall be evidenced by a power of attorney conforming substantially to the appropriate Official Form. The execution of any such power of attorney shall be acknowledged before one of the officers enumerated in 28 U.S.C. § 459, § 953, Rule 9012, or a person authorized to administer oaths under the laws of the state where the oath is administered. | **(c) Power of Attorney to Represent a Creditor.** The authority of an agent, attorney-in-fact, or proxy to represent a creditor—for any purpose other than executing and filing a proof of claim or accepting or rejecting a plan—must be evidenced by a power of attorney that substantially conforms ~~substantially~~ to the appropriate version of Form 411. A power of attorney must be acknowledged before:<br>(1) an officer listed in 28 U.S.C. § 459 or § 953 or in Rule 9012; or<br>(2) a person authorized to administer oaths under the state law where the oath is administered. |

**Committee Note**

The language of Rule 9010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 9010(a)(2), the language was returned to that of the existing rule except that "attorney in fact" was changed to "attorney-in-fact".

• In Rule 9010(b) the phrase "that contains" was changed to "containing".

• In Rule 9010(c) the phrase "conforms substantially" was changes to "substantially conforms".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested inserting the word "including" in Rule 9010(a)(2) to make clear that party does not have to act through an authorized agent, attorney-in-fact or proxy to perform acts other than the practice of law.

> ***Response***: The existing version of the rule does not have the word "including" and may also be ambiguous about whether the power to perform those acts without doing it through an agent, etc., is conferred on a party. The restyled version eliminated the ambiguity. To preserve it, we will return to the original language.

The NBC suggests changing the words "that contains" in Rule 9010(b) to "containing".

> ***Response***: Suggestion accepted.

In Rule 9010(b) the NBC suggested retaining the existing phrase "conforming substantially" instead of (what is now) "that substantially conforms".

> ***Response***: No reason was given for the proposed change, and we do not see any reason to revert to the original language because the restyled language has no different meaning.

| ORIGINAL | REVISION |
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| **Rule 9011. Signing of Papers; Representations to the Court; Sanctions; Verification and Copies of Papers** | **Rule 9011. Signing Documents; Representations to the Court; Sanctions; Verifying and Providing Copies** |
| (a) SIGNATURE. Every petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one attorney of record in the attorney's individual name. A party who is not represented by an attorney shall sign all papers. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party. | **(a) Signature.** Every petition, pleading, written motion, and other document—except a list, schedule, or statement, or ~~any~~ an amendment to one of them—must be signed by at least one attorney of record in the attorney's individual name. A party not represented by an attorney must sign all documents. Each document must state the signer's address and telephone number, if any. The court must strike an unsigned document unless the omission is promptly corrected after being called to the attention of the attorney's or party's attention. |
| (b) REPRESENTATIONS TO THE COURT. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—[1]<br>(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;<br>(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;<br>(3) the allegations and other | **(b) Representations to the Court.** By presenting to the court a petition, pleading, written motion, or other document—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that, to the best of the person's knowledge, information, and belief formed after an inquiry reasonable under the circumstances:<br>(1) it is not presented for any improper purpose, such as to harass, ~~or to~~ cause unnecessary delay, or needlessly increase litigation costs;<br>(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument to extend, modify, or reverse existing law, or to establish new law;<br>(3) the allegations and factual contentions have evidentiary support—or if specifically so identified, are likely to have evidentiary support after a |

[1] So in original. The comma probably should not appear.

| ORIGINAL | REVISION |
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| factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and<br><br>(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. | reasonable opportunity for further investigation or discovery; and<br><br>(4) the denials of factual contentions are warranted on the evidence—or if specifically so identified, are reasonably based on a lack of information or belief. |
| (c) SANCTIONS. If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.<br><br>(1) *How Initiated.*<br><br>(A) *By Motion.* A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 7004. The motion for sanctions may not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected, except that this limitation shall not apply if the conduct alleged is the filing of a petition in violation of subdivision (b). If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations | **(c) Sanctions.**<br><br>(1) ***In General.*** If, after notice and a reasonable opportunity to respond, the court determines that (b) has been violated, the court may, subject to the conditions ~~stated below~~in this subdivision (c), impose an appropriate sanction on any attorney, law firm, or party that committed the violation or is responsible for it. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.<br><br>(2) ***By Motion.***<br><br>(A) *In General.* A motion for sanctions must be made separately from any other motion or request, describe the specific conduct alleged to violate (b), and be served under Rule 7004.<br><br>(B) *When to File.* The motion for sanctions must not be filed or presented to the court if the challenged document, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected within 21 days after the motion was served (or within another period as the court may order). This limitation does not apply if the conduct alleged is filing |

| ORIGINAL | REVISION |
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| committed by its partners, associates, and employees.<br><br>(B) *On Court's Initiative.* On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.<br><br>(2) *Nature of Sanction; Limitations.* A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in sub-paragraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.<br><br>(A) Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2).<br><br>(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.<br><br>(3) *Order.* When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed. | a petition in violation of (b).<br><br>(C) *Awarding Damages.* If warranted, the court may award to the prevailing party the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.<br><br>(3) ***By the Court.*** On its own, the court may enter an order describing the specific conduct that appears to violate (b) and directing an attorney, law firm, or party to show cause why ~~conduct specifically described in the order~~it has not violated (b).<br><br>(4) ***Nature of a Sanction; Limitations.***<br><br>(A) *In General.* A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or deter comparable conduct by others similarly situated. The sanction may include:<br><br>(i) a nonmonetary directive;<br><br>(ii) an order to pay a penalty into court; or<br><br>(iii) if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of all or part of the reasonable attorney's fees and other expenses directly resulting from the violation.<br><br>(B) *Limitations on a Monetary Sanction.* The court must not impose a monetary sanction:<br><br>(i) against a represented party for violating (b)(2); or<br><br>(ii) on its own, unless it issued the show-cause order under (c)(3) before voluntary dismissal or settlement of the claims made by or against the |

| ORIGINAL | REVISION |
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| | party that is, or whose attorneys are, to be sanctioned.<br><br>(5) ***Content of a Court Order.*** An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction. |
| (d) INAPPLICABILITY TO DISCOVERY. Subdivisions (a) through (c) of this rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 7026 through 7037. | **(d) Inapplicability to Discovery.** Subdivisions (a)–(c) do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to Rules 7026–7037. |
| (e) VERIFICATION. Except as otherwise specifically provided by these rules, papers filed in a case under the Code need not be verified. Whenever verification is required by these rules, an unsworn declaration as provided in 28 U.S.C. § 1746 satisfies the requirement of verification. | **(e)** ~~**Verification**~~**Verifying a Document.** A document filed in a bankruptcy case need not be verified unless these rules provide otherwise. When these rules require verification, an unsworn declaration under 28 U.S.C. § 1746 suffices. |
| (f) COPIES OF SIGNED OR VERIFIED PAPERS. When these rules require copies of a signed or verified paper, it shall suffice if the original is signed or verified and the copies are conformed to the original. | **(f) Copies of Signed or Verified Documents.** When these rules require copies of a signed or verified document, if the original is signed or verified, a copy that conforms to the original suffices. |

**Committee Note**

The language of Rule 9011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 9011(a) the word "any" was changed to "an" and the words "of them" were inserted after "one".

• In Rule 9011(b)(1) a comma was inserted after "harass" and the words "or to" were

deleted.

• In Rule 9011(c)(1) the words "stated below" were replaced with "in this subdivision (c)".

• The word "the" was inserted between the phrases "prevailing party" and "reasonable expenses" in Rule 9011(c)(2)(C).

• Rule 9011(c)(3) was rewritten to replace the words "may order" with "may enter an order describing the specific conduct that appears to violate (b) and directing". The words "conduct specifically described in the order" were replaced with "it."

• The title to Rule 9011(e) was changed To "Verifying a Document".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 9011(a), the NBC believes the phrase "amendment to one" is "more awkward and less clear than the existing language of 'amendment thereto'".

> ***Response***: The word "thereto" does not appear in the restyled rules. We have inserted "of those" after "one" which may improve the awkwardness.

In Rule 9011(b), the NBC finds the phrase "advocating it" ambiguous and "strange" (given that one does not advocate petitions or documents. They suggested "advocating a position set forth therein" or using another word.

> ***Response***: The language of 9011(b) is identical to that in Fed. R. Civ. P. 11(b). No change was made in response to this comment.

In Rule 9011(b)(1), the NBC suggested inserting a comma after "harass" and deleting the words "or to".

> ***Response***: The style consultants had already decided to make that change.

The NBC suggested replacing the word "the" at the beginning of each of (b)(2), (b)(3), and (b)(4) with the word "its".

> ***Response***: The original rule uses the term "the" in each of these places and we see no reason to change for the restyled rule. No change was made in response to this comment.

In Rule 9011(c)(1), the NBC suggests replacing the phrase "conditions stated below" with

"conditions stated in this rule" as more consistent with the restyling usage.

***Response***: Suggestion accepted.

In Rule 9011(c)(2)(C) the NBC found the placement together of two nouns--"prevailing party" and "reasonable expenses"—to be confusing and suggested inserting the word "any" between them.

***Response***: The original rule had the word "the" between the two phrases, and we have reinserted that word.

| ORIGINAL | REVISION |
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| **Rule 9012. Oaths and Affirmations** | **Rule 9012. Oaths and Affirmations** |
| (a) PERSONS AUTHORIZED TO ADMINISTER OATHS. The following persons may administer oaths and affirmations and take acknowledgments: a bankruptcy judge, clerk, deputy clerk, United States trustee, officer authorized to administer oaths in proceedings before the courts of the United States or under the laws of the state where the oath is to be taken, or a diplomatic or consular officer of the United States in any foreign country. | **(a) Who May Administer an Oath.** These persons may administer an oath or affirmation or take an acknowledgment:<br>• a bankruptcy judge;<br>• a clerk;<br>• a deputy clerk;<br>• a United States trustee;<br>• an officer authorized to ~~do so~~administer oaths in a proceeding before a federal court or by state law in the state where the oath is taken; or<br>• a United States diplomatic or consular officer in a foreign country. |
| (b) AFFIRMATION IN LIEU OF OATH. When in a case under the Code an oath is required to be taken a solemn affirmation may be accepted in lieu thereof. | **(b) Affirmation as an Alternative.** If an oath is required, a solemn affirmation suffices. |

**Committee Note**

The language of Rule 9012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9012(a), fifth bullet point, the words "do so" were changed to "administer oaths".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested changing the fifth bullet point in Rule 9012(a) to cover affirmations and acknowledgments at the end of the bullet point as they are at the beginning by replacing "where the oath is taken" with "where administered or taken".

> ***Response***: The same objective can be achieved by changing the word "oath" to "action" (to cover administering oaths or affirmations or taking acknowledgments).

| ORIGINAL | REVISION |
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| **Rule 9013. Motions: Form and Service** | **Rule 9013. Motions; Form and Service** |
| A request for an order, except when an application is authorized by the rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Every written motion, other than one which may be considered ex parte, shall be served by the moving party within the time determined under Rule 9006(d). The moving party shall serve the motion on:<br>(a) the trustee or debtor in possession and on those entities specified by these rules; or<br>(b) the entities the court directs if these rules do not require service or specify the entities to be served. | **(a) Request for an Order.** A request for an order must be made by written motion unless:<br>(1) an application is authorized by these rules; or<br>(2) the request is made during a hearing. |
| | **(b) Form and Service of ~~the~~ a Motion.** ~~The~~ A motion must state its grounds with particularity and set forth the relief or order ~~sought~~requested. Unless a written motion may be considered ex parte, the movant must, within the time prescribed by Rule 9006(d), serve the motion on:<br>• the trustee or debtor in possession and those entities specified by these rules; or<br>• if these rules do not require service or specify the entities to be served, the entities designated by the court. |

**Committee Note**

The language of Rule 9013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• In Rule 9013(b) the word "the" in the title is changed to "a" and the first word of the section is changed from "The" to "A". This makes it consistent with Rule 9013(a) which deals with "A request" for "an order". In addition, the word "sought" was changed to "requested", again mirroring the word "request" in Rule 9013(a)(2).

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested adding a third enumerated exception in Rule 9013(a) to the written motion requirement when "a pleading in an adversary proceeding is authorized or required by

these rules" which they believe is implicit in the existing and restyled rule.

> ***Response***: This would be a substantive change. No change was made in response to this comment.

The NBC suggests that the title to Rule 9013(b) be changed to refer to "a" motion rather than "the" motion, and that the first word of the section be changed from "The" to "A".

> ***Response***: Suggestion accepted.

The NBC also suggests that the word "sought" in Rule 9013(b) be changed to "requested" which is consistent with Rule 9013(a)(2).

> ***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9014. Contested Matters** | **Rule 9014. Contested Matters** |
| (a) MOTION. In a contested matter not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No response is required under this rule unless the court directs otherwise. | **(a) Motion Required.** In a contested matter not otherwise governed by these rules, relief must be requested by motion. Reasonable notice and an opportunity to be heard must be given to the party against whom relief is sought. No response is required unless the court orders otherwise. |
| (b) SERVICE. The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004 and within the time determined under Rule 9006(d). Any written response to the motion shall be served within the time determined under Rule 9006(d). Any paper served after the motion shall be served in the manner provided by Rule 5(b) F.R. Civ. P. | **(b) Service.**<br>(1) ***Motion.*** The motion must be served within the time prescribed by Rule 9006(d) and in the manner for serving a summons and complaint provided by Rule 7004.<br>(2) ***Response.*** Any written response must be served within the time prescribed by Rule 9006(d).<br>(3) ***Later Filings.*** After a motion is served, any other document must be served in the manner prescribed by Fed. R. Civ. P. 5(b). |
| (c) APPLICATION OF PART VII RULES. Except as otherwise provided in this rule, and unless the court directs otherwise, the following rules shall apply: 7009, 7017, 7021, 7025, 7026, 7028–7037, 7041, 7042, 7052, 7054–7056, 7064, 7069, and 7071. The following subdivisions of Fed. R. Civ. P. 26, as incorporated by Rule 7026, shall not apply in a contested matter unless the court directs otherwise: 26(a)(1) (mandatory disclosure), 26(a)(2) (disclosures regarding expert testimony) and 26(a)(3) (additional pretrial disclosure), and 26(f) (mandatory meeting before scheduling conference/discovery plan). An entity that desires to perpetuate testimony may proceed in the same manner as provided in Rule 7027 for the taking of a | **(c) Applying Part VII Rules.**<br>(1) ***In General.*** Unless this rule or a court order provides otherwise, the following rules apply in a contested matter: 7009, 7017, 7021, 7025–7026, 7028–7037, 7041–7042, 7052, 7054–7056, 7064, 7069, and 7071. At any stage of a contested matter, the court may order that one or more other Part VII rules apply.<br>(2) ***Exception.*** Unless the court orders otherwise, the following subdivisions of Fed. R. Civ. P. 26, as incorporated by Rule 7026, do not apply in a contested matter:<br>• (a)(1), mandatory disclosure;<br>• (a)(2), disclosures about expert testimony; |

| ORIGINAL | REVISION |
|---|---|
| deposition before an adversary proceeding. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. The court shall give the parties notice of any order issued under this paragraph to afford them a reasonable opportunity to comply with the procedures prescribed by the order. | • (a)(3), other pretrial disclosures; and<br>• (f), mandatory meeting before a scheduling conference~~/ discovery plan~~.<br>(3) ***Procedural Order.*** In issuing any procedural order under this subdivision (c), the court must give the parties notice and a reasonable opportunity to comply.<br>(4) ***Perpetuating Testimony.*** An entity desiring to perpetuate testimony may do so in the manner provided by Rule 7027 for taking a deposition before an adversary proceeding. |
| (d) TESTIMONY OF WITNESSES. Testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding. | **(d) Taking Testimony on a Disputed Factual Issue.** A witness's testimony on a disputed material factual issue must be taken in the same manner as testimony in an adversary proceeding. |
| (e) ATTENDANCE OF WITNESSES. The court shall provide procedures that enable parties to ascertain at a reasonable time before any scheduled hearing whether the hearing will be an evidentiary hearing at which witnesses may testify. | **(e) Determining Whether a Hearing Will Be an Evidentiary Hearing.** The court must provide procedures that allow parties—at a reasonable time before a scheduled hearing—to determine whether it will be an evidentiary hearing at which witnesses may testify. |

**Committee Note**

The language of Rule 9014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In the heading of Rule 9014(b)(3), the word "Filing" was changed to "Filings".
- In Rule 9014(c)(1), the word "contested" was inserted before the word "matter".
- In the last bullet point in Rule 9014(c)(2), the phrase "/discovery plan" were deleted.

• The title to Rule 9014(d) was modified to add the phrase "on a Disputed Factual Issue" after "Testimony".

• The title to Rule 9014(e) was modified to add the word "Determining Whether a Hearing Will Be an" before the word "Evidentiary".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests that in the second sentence of Rule 9014(c)(1) the word "contested" be inserted before the word "matter".

> ***Response***: Suggestion accepted.

The NBC thinks that in the bullet points in Rule 9014(c)(2) the phrases describing the content of the various Federal Rules of Civil Procedure should be deleted and the text should then be collapsed into a sentence with no bullet points.

> **Response**: The existing rule has the descriptive text, and we believe it is useful for those who are not familiar with the Federal Rules of Civil Procedure. No change was made in response to this comment.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9015. Jury Trials** | **Rule 9015. Jury Trial.** |
| (a) APPLICABILITY OF CERTAIN FEDERAL RULES OF CIVIL PROCEDURE. Rules 38, 39, 47–49, and 51, F.R.Civ.P., and Rule 81(c) F.R.Civ.P. insofar as it applies to jury trials, apply in cases and proceedings, except that a demand made under Rule 38(b) F.R.Civ.P. shall be filed in accordance with Rule 5005. | **(a) In General.** In a bankruptcy case or proceeding, Fed. R. Civ. P. 38–39, 47–49, 51, and 81(c) (insofar as it applies to jury trials) apply~~,~~. ~~but~~ But a demand for a jury trial under Fed. R. Civ. P. 38(b) must be filed in accordance with Rule 5005. |
| (b) CONSENT TO HAVE TRIAL CONDUCTED BY BANKRUPTCY JUDGE. If the right to a jury trial applies, a timely demand has been filed pursuant to Rule 38(b) F.R.Civ.P., and the bankruptcy judge has been specially designated to conduct the jury trial, the parties may consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. § 157(e) by jointly or separately filing a statement of consent within any applicable time limits specified by local rule. | **(b) Jury Trial Before a Bankruptcy Judge.** The parties may—jointly or separately—file a statement consenting to a jury trial conducted by a bankruptcy judge under 28 U.S.C. § 157(e) if:<br>(1) the right to a jury trial applies;<br>(2) a timely demand has been filed under Fed. R. Civ. P. 38(b);<br>(3) the bankruptcy judge has been specially designated to conduct the jury trial; and<br>(4) the statement is filed within any time specified by local rule. |
| (c) APPLICABILITY OF RULE 50 F.R.CIV.P. Rule 50 F.R.Civ.P. applies in cases and proceedings, except that any renewed motion for judgment or request for a new trial shall be filed no later than 14 days after the entry of judgment. | **(c) Judgment as a Matter of Law; Motion for a New Trial.** Fed. R. Civ. P. 50 applies in a bankruptcy case or proceeding—except that a renewed motion for judgment, or a request for a new trial, must be filed within 14 days after the judgment is entered. |

**Committee Note**

The language of Rule 9015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested that most of Rule 8015(b) be deleted as replicating the requirements of 28 U.S.C. § 157(e) and overlapping Rule 8015(a).

> ***Response***: That would be a substantive change from the current rule. No change was made in response to this comment.

The NBC would replace the em dash in Rule 9015(c) with a comma.

> ***Response***: That is a matter of style, and we defer to the style consultants on matters of style. No change was made in response to this comment.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9016. Subpoena** | **Rule 9016. Subpoena** |
| Rule 45 F.R.Civ.P. applies in cases under the Code. | Fed. R. Civ. P. 45 applies in a bankruptcy case. |

**Committee Note**

The language of Rule 9016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9017. Evidence** | **Rule 9017. Evidence** |
| The Federal Rules of Evidence and Rules 43, 44 and 44.1 F.R.Civ.P. apply in cases under the Code. | The Federal Rules of Evidence and Fed. R. Civ. P. 43, 44, and 44.1 apply in a bankruptcy case. |

**Committee Note**

The language of Rule 9017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9018. Secret, Confidential, Scandalous, or Defamatory Matter** | **Rule 9018. Secret, Confidential, Scandalous, or Defamatory Matter** |
| On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code, or (3) to protect governmental matters that are made confidential by statute or regulation. If an order is entered under this rule without notice, any entity affected thereby may move to vacate or modify the order, and after a hearing on notice the court shall determine the motion. | **(a) In General.** On motion or on its own, the court may—, with or without notice—, issue any order that justice requires to:<br>(1) protect the estate or any entity regarding a trade secret or other confidential research, development, or commercial information;<br>(2) protect an entity from scandalous or defamatory matter in any document filed in a bankruptcy case; or<br>(3) protect governmental matters made confidential by statute or regulation.<br>**(b) Motion to Vacate or Modify an Order Issued Without Notice.** An entity affected by an order issued under (a) without notice may move to vacate or modify it. After notice and a hearing, the court must rule on the motion. |

**Committee Note**

The language of Rule 9018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The em dashes in Rule 9018(a) were replaced with commas.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9019. Compromise and Arbitration** | **Rule 9019. Compromise or Settlement; Arbitration** |
| (a) COMPROMISE. On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct. | **(a) Approving a Compromise or Settlement.** On the trustee's motion and after notice and a hearing, the court may approve a compromise or settlement. Notice must be given to:<br>• ~~the~~ all creditors;<br>• the United States trustee;<br>• the debtor;<br>• all indenture trustees as provided in Rule 2002; and<br>• any other entity the court designates. |
| (b) AUTHORITY TO COMPROMISE OR SETTLE CONTROVERSIES WITHIN CLASSES. After a hearing on such notice as the court may direct, the court may fix a class or classes of controversies and authorize the trustee to compromise or settle controversies within such class or classes without further hearing or notice. | **(b) Compromising or Settling Controversies in Classes.** After a hearing on such notice as the court may ~~direct~~order, the court may:<br>(1) ~~fix~~ designate a class or classes of controversies; and<br>(2) authorize the trustee to compromise or settle controversies within the class or classes without further hearing or notice. |
| (c) ARBITRATION. On stipulation of the parties to any controversy affecting the estate the court may authorize the matter to be submitted to final and binding arbitration. | **(c) Arbitration of Controversies Affecting an Estate.** If the parties so stipulate, the court may authorize a controversy affecting an estate to be submitted to final and binding arbitration. |

**Committee Note**

The language of Rule 9019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The words "or Settlement" were inserted in the title to Rule 9019 and the title to Rule 9019(a) after the word "Compromise".

• In the first bullet point in Rule 9019(a), the word "the" was changed to "all" and in the fourth bullet point the word "all" was inserted before "indenture".

• In Rule 9019(b) the word "direct" was replaced with "order".

• In Rule 9019(b)(1) the word "fix" was replaced with "designate".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests changing the language in the first bullet point under Rule 9019(a) from "the creditors" to "all creditors", consistent with Rule 2002(a).

> ***Response***: Suggestion accepted.

Similarly, the NBC suggests inserting the word "all" before "indenture trustees" in the fourth bullet point under (a) to be consistent with Rule 2002(a).

> ***Response***: Suggestion accepted.

The NBC suggests changing the subheading for Rule 9019(b) from "Controversies in Classes" to "Classes of Controversies".

> ***Response***: The existing rule uses the term "Controversies Within Classes"; "Controversies in Classes" expresses the substance of that existing title. No change was made in response to this suggestion.

The NBC suggests returning the heading of Rule 9019(d) to "Arbitration". They believe the additional language adds nothing because a bankruptcy court does not have jurisdiction over a controversy unless it affects the estate.

> ***Response***: the text of both the original rule and the restyled rules refer to controversies "affecting the estate". It is appropriate for the heading to use the same phrase. No change was made in response to this comment.

| ORIGINAL | REVISION |
| --- | --- |
| **Rule 9020. Contempt Proceedings** | **Rule 9020. Contempt Proceedings** |
| Rule 9014 governs a motion for an order of contempt made by the United States trustee or a party in interest. | Rule 9014 governs a motion for a contempt order made by the United States trustee or a party in interest. |

**Committee Note**

The language of Rule 9020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9021. Entry of Judgment** | **Rule 9021. When a Judgment or Order Becomes Effective** |
| A judgment or order is effective when entered under Rule 5003. | A judgment or order becomes effective when it is entered under Rule 5003. |

**Committee Note**

The language of Rule 9021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9022. Notice of Judgment or Order** | **Rule 9022. Notice of a Judgment or Order** |
| (a) JUDGMENT OR ORDER OF BANKRUPTCY JUDGE. Immediately on the entry of a judgment or order the clerk shall serve a notice of entry in the manner provided in Rule 5(b) F.R.Civ.P. on the contesting parties and on other entities as the court directs. Unless the case is a chapter 9 municipality case, the clerk shall forthwith transmit to the United States trustee a copy of the judgment or order. Service of the notice shall be noted in the docket. Lack of notice of the entry does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in Rule 8002. | **(a) Issued by a Bankruptcy Judge.**<br>(1) ***In General.*** Upon entering a judgment or order, the clerk must:<br>(A) promptly serve notice of the entry on the contesting parties and other entities the court designates;<br>(B) do so in the manner provided by Fed. R. Civ. P. 5(b);<br>(C) except in a Chapter 9 case, promptly send a copy of the judgment or order to the United States trustee; and<br>(D) note service on the docket.<br>(2) ***Lack of Notice; Time to Appeal.*** Except as permitted by Rule 8002, lack of notice of the entry does not affect the time to appeal or relieve—or authorize the court to relieve—a party for failing to appeal within the time allowed. |
| (b) JUDGMENT OR ORDER OF DISTRICT JUDGE. Notice of a judgment or order entered by a district judge is governed by Rule 77(d) F.R.Civ.P. Unless the case is a chapter 9 municipality case, the clerk shall forthwith transmit to the United States trustee a copy of a judgment or order entered by a district judge. | **(b) Issued by a District Judge.** Notice of a district judge's judgment or order is governed by Fed. R. Civ. P. 77(d). Except in a Chapter 9 case, the clerk must promptly send a copy of the judgment or order to the United States trustee. |

**Committee Note**

The language of Rule 9022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Changes Made After Publication and Comment**

• In Rule 9022(b), the words "of the judgment or order" have been inserted after the word "copy".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC believes that it is not clear what the clerk is supposed to send a copy of pursuant to the last sentence of Rule 9022(b) and suggests adding "of the judgment or order".

***Response***: Suggestion accepted.

**• Jeffrey Cozad (BK-2022-0002-0010)**

Mr. Cozad also requested the addition of the language "of the judgment or order" to the last sentence of Rule 9022(b), noting that the same language appeared in (a)(1)(C).

**Response:** Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9023. New Trials; Amendment of Judgments** | **Rule 9023. New Trial; Altering or Amending a Judgment** |
| Except as provided in this rule and Rule 3008, Rule 59 F.R.Civ.P. applies in cases under the Code. A motion for a new trial or to alter or amend a judgment shall be filed, and a court may on its own order a new trial, no later than 14 days after entry of judgment. In some circumstances, Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending. | (a) ~~By Motion~~Application of Civil Rule 59. Except as this rule and Rule 3008 provide otherwise, Fed. R. Civ. P. 59 applies in a bankruptcy case.<br><br>~~(a)~~(b) By Motion. A motion for a new trial or to alter or amend a judgment must be filed within 14 days after the judgment is entered. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending.<br><br>~~(b)~~(c) **By the Court.** Within 14 days after judgment is entered, the court may, on its own, order a new trial. |

**Committee Note**

The language of Rule 9023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The title to Rule 9023 has been amended by adding the words "Altering or" before the word "Amending".

• The text of Rule 9023(a) has been divided into two subsections, (a) with the title of "Application of Civil Rule 59" the text of which contains the first sentence of the former (a), and (b) with the title "By Motion" which has the remaining two sentences of former (a). Former (b) is now (c).

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9024. Relief from Judgment or Order** | **Rule 9024. Relief from a Judgment or Order** |
| Rule 60 F.R.Civ.P. applies in cases under the Code except that (1) a motion to reopen a case under the Code or for the reconsideration of an order allowing or disallowing a claim against the estate entered without a contest is not subject to the one year limitation prescribed in Rule 60(c), (2) a complaint to revoke a discharge in a chapter 7 liquidation case may be filed only within the time allowed by § 727(e) of the Code, and (3) a complaint to revoke an order confirming a plan may be filed only within the time allowed by § 1144, § 1230, or § 1330. In some circumstances, Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending. | **(a) In General.** Fed. R. Civ. P. 60 applies in a bankruptcy case—except that:<br>(1) the one-year limitation in Fed. R. Civ. P. 60(c) does not apply to a motion to reopen a case or to reconsider an uncontested order allowing or disallowing a claim against the estate;<br>(2) a complaint to revoke a discharge in a Chapter 7 case must be filed within the time allowed by § 727(e); and<br>(3) a complaint to revoke an order confirming a plan must be filed within the time allowed by § 1144, 1230, or 1330.<br>**(b) Indicative Ruling**. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending. |

**Committee Note**

The language of Rule 9024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9024(a)(1), the words "against the estate" were added after the word "claim".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In the introduction to Rule 9024(a) the NBC suggests replacing the em dash with a comma.

> ***Response***: This is a matter of style, and on style we defer to the style consultants. No change was made in response to this comment.

In Rule 9024(a), the NBC notes that the term "claim" has a much broader meaning in civil practice than in bankruptcy practice, and even in the Bankruptcy Code the term "claim" is not

confined to a claim against the debtor or the estate. Therefore, they suggest keeping the original language "claim against the estate".

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9025. Security: Proceedings Against Security Providers** | **Rule 9025. Security; Proceeding Against a Security Provider** |
| Whenever the Code or these rules require or permit a party to give security, and security is given with one or more security providers, each provider submits to the jurisdiction of the court, and liability may be determined in an adversary proceeding governed by the rules in Part VII. | When the Code or these rules require or permit a party to give security~~,~~ and the party gives security with one or more security providers, each provider submits to the court's jurisdiction. Liability may be determined in an adversary proceeding governed by the Part VII rules. |

**Committee Note**

The language of Rule 9025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The comma after the word "security" in the first sentence was deleted.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9026. Exceptions Unnecessary** | **Rule 9026. Objecting to a Ruling or Order** |
| Rule 46 F.R.Civ.P. applies in cases under the Code. | Fed. R. Civ. P. 46 applies in a bankruptcy case. |

**Committee Note**

The language of Rule 9026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9027. Removal** | **Rule 9027. Removing a Claim or Cause of Action from Another Court** |
| (a) NOTICE OF REMOVAL.<br><br>(1) *Where Filed; Form and Content.* A notice of removal shall be filed with the clerk for the district and division within which is located the state or federal court where the civil action is pending. The notice shall be signed pursuant to Rule 9011 and contain a short and plain statement of the facts which entitle the party filing the notice to remove, contain a statement that upon removal of the claim or cause of action, the party filing the notice does or does not consent to entry of final orders or judgment by the bankruptcy court, and be accompanied by a copy of all process and pleadings.<br><br>(2) *Time for Filing; Civil Action Initiated Before Commencement of the Case Under the Code.* If the claim or cause of action in a civil action is pending when a case under the Code is commenced, a notice of removal may be filed only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.<br><br>(3) *Time for filing; civil action initiated after commencement of the case under the Code.* If a claim or cause of action is asserted in another court after the commencement of a case under the Code, a notice of removal may be filed with the clerk only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause | **(a) Notice of Removal.**<br><br>(1) ***Where Filed; Form and Content.*** A notice of removal must be filed with the clerk for the district and division where the state or federal civil action is pending. The notice must be signed—under Rule 9011—and must:<br><br>(A) contain a short and plain statement of the facts that entitle the party to remove;<br><br>(B) contain a statement that the party filing the notice does or does not consent to the bankruptcy court's entry of a final judgment or order; and<br><br>(C) be accompanied by a copy of all process and pleadings.<br><br>(2) ***Time to File When the Claim Was Filed Before the Bankruptcy Case ~~Was~~ Is Commenced.*** If the claim or cause of action in a civil action is pending when a bankruptcy case is commenced, the notice of removal must be filed within the longest of these periods:<br><br>(A) 90 days after the order for relief in the bankruptcy case;<br><br>(B) if the claim or cause of action has been stayed under § 362, 30 days after an order terminating the stay is entered; or<br><br>(C) in a Chapter 11 case, 30 days after a trustee qualifies—but no later than 180 days after the order for relief.<br><br>(3) ***Time to File When the Claim Is Filed After the Bankruptcy Case Was Commenced.*** If a claim or cause of action is asserted in another court |

| ORIGINAL | REVISION |
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| of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons. | after the bankruptcy case was commenced, a party filing a notice of removal must do so within the shorter of these periods:<br>(A) 30 days after receiving (by service or otherwise) the initial pleading setting forth the claim or cause of action sought to be removed; or<br>(B) 30 days after receiving the summons if the initial pleading has been filed but not served with the summons. |
| (b) NOTICE. Promptly after filing the notice of removal, the party filing the notice shall serve a copy of it on all parties to the removed claim or cause of action. | **(b) Notice to Other Parties and to the Court from Which the Claim Was Removed.** A party filing a notice of removal must promptly:<br>(1) serve a copy on all other parties to the removed claim or cause of action; and<br>(2) file a copy with the clerk of the court from which it was removed. |
| (c) FILING IN NON-BANKRUPTCY COURT. Promptly after filing the notice of removal, the party filing the notice shall file a copy of it with the clerk of the court from which the claim or cause of action is removed. Removal of the claim or cause of action is effected on such filing of a copy of the notice of removal. The parties shall proceed no further in that court unless and until the claim or cause of action is remanded. | **(c) Effective Date of Removal.** Removal becomes effective when the notice is filed under (b)(2). The parties must proceed no further in the court from which the claim or cause of action was removed, unless ~~the claim or cause of action~~it is remanded. |
| (d) REMAND. A motion for remand of the removed claim or cause of action shall be governed by Rule 9014 and served on the parties to the removed claim or cause of action. | **(d) Remand After Removal.** A motion to remand is governed by Rule 9014. The party filing the motion must serve a copy on all parties to the removed claim or cause of action. |
| (e) PROCEDURE AFTER REMOVAL.<br>(1) After removal of a claim or cause of action to a district court the | **(e) Procedure After Removal.**<br>(1) ***Bringing Proper Parties Before the Court.*** After removal, the district court—or the bankruptcy judge to |

| ORIGINAL | REVISION |
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| district court or, if the case under the Code has been referred to a bankruptcy judge of the district, the bankruptcy judge, may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the court from which the claim or cause of action was removed or otherwise.<br><br>(2) The district court or, if the case under the Code has been referred to a bankruptcy judge of the district, the bankruptcy judge, may require the party filing the notice of removal to file with the clerk copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed.<br><br>(3) Any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, shall file a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court. A statement required by this paragraph shall be signed pursuant to Rule 9011 and shall be filed not later than 14 days after the filing of the notice of removal. Any party who files a statement pursuant to this paragraph shall mail a copy to every other party to the removed claim or cause of action. | whom the bankruptcy case has been referred—may issue all necessary orders and process to bring before it all proper parties. It does not matter whether they were served by process issued by the court from which the claim or cause of action was removed, or otherwise.<br><br>(2) ***Records of Prior Proceedings.*** The judge may require the party filing the notice of removal to file with the clerk copies of all records and proceedings relating to the claim or cause of action that were filed in the court from which the removal occurred.<br><br>(3) ***Statement by a Party ~~to a Removed Claim~~Other Than the Removing Party.*** A party who has filed a pleading ~~in~~ regarding a removed claim or cause of action—except the party filing the notice of removal—must:<br><br>(A) file a statement that the party does or does not consent to the bankruptcy court's entry of a final order or judgment ~~of the bankruptcy court~~;<br><br>(B) ~~ensure that~~sign the statement ~~is signed as~~under Rule 9011 ~~provides~~;<br><br>(C) file it within 14 days after the notice of removal is filed; and<br><br>(D) mail a copy to every other party to the removed claim or cause of action. |
| (f) PROCESS AFTER REMOVAL. If one or more of the defendants has not been served with process, the service has not been perfected prior to removal, or the process served proves to be defective, such process or service may be completed or new process issued pursuant to Part VII of these rules. This subdivision shall not deprive any | **(f) Process Regarding a Defendant After Removal.** If a defendant has not been served—or service has not been completed before removal or has been proved defective—then process or service may be completed or new process issued ~~as~~ under the Part VII rules ~~provide~~. A defendant served after removal may move to remand the claim or cause of action ~~to the court~~ |

| ORIGINAL | REVISION |
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| defendant on whom process is served after removal of the defendant's right to move to remand the case. | ~~from which it was removed~~. |
| (g) APPLICABILITY OF PART VII. The rules of Part VII apply to a claim or cause of action removed to a district court from a federal or state court and govern procedure after removal. Repleading is not necessary unless the court so orders. In a removed action in which the defendant has not answered, the defendant shall answer or present the other defenses or objections available under the rules of Part VII within 21 days following the receipt through service or otherwise of a copy of the initial pleading setting forth the claim for relief on which the action or proceeding is based, or within 21 days following the service of summons on such initial pleading, or within seven days following the filing of the notice of removal, whichever period is longest. | **(g) Applying Part VII Rules.**<br>(1) ***In General.*** The Part VII rules apply to a claim or cause of action removed to a district court from a federal or state court, and they govern the procedure after removal. Repleading is not necessary unless the court orders otherwise.<br>(2) ***Time to File an Answer.*** In a removed action, a defendant that has not previously done so must file an answer—or present other defenses or objections available under the Part VII rules. The defendant must do so within the longest of these periods:<br>(A) 21 days after receiving—by service or otherwise—a copy of the initial pleading that sets forth the claim for relief;<br>(B) 21 days after a summons on the original pleading was served; or<br>(C) 7 days after the notice of removal was filed. |
| (h) RECORD SUPPLIED. When a party is entitled to copies of the records and proceedings in any civil action or proceeding in a federal or a state court, to be used in the removed civil action or proceeding, and the clerk of the federal or state court, on demand accompanied by payment or tender of the lawful fees, fails to deliver certified copies, the court may, on affidavit reciting the facts, direct such record to be supplied by affidavit or otherwise. Thereupon the proceedings, trial and judgment may be had in the court, and all process awarded, as if certified copies had been filed. | **(h) Clerk's Failure to Supply Certified Records of Court Proceedings.** If a party is entitled to copies of the records and proceedings in a civil action or proceeding in a federal or state court for use in the removed action or proceeding, the party may demand certified copies from that court's clerk. After the party pays for them or tenders the fees, if the clerk fails to provide them, the court to which the action or proceeding is removed may—after receiving an affidavit stating these facts—order that the record be supplied by affidavit or otherwise. The court may then proceed to trial and judgment, and may award all process, as if certified copies had |

| ORIGINAL | REVISION |
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| | been filed. |
| (i) ATTACHMENT OR SEQUESTRATION; SECURITIES. When a claim or cause of action is removed to a district court, any attachment or sequestration of property in the court from which the claim or cause of action was removed shall hold the property to answer the final judgment or decree in the same manner as the property would have been held to answer final judgment or decree had it been rendered by the court from which the claim or cause of action was removed. All bonds, undertakings, or security given by either party to the claim or cause of action prior to its removal shall remain valid and effectual notwithstanding such removal. All injunctions issued, orders entered and other proceedings had prior to removal shall remain in full force and effect until dissolved or modified by the court. | **(i) Property Attached or Sequestered; Security; Injunction.**<br>(1) ***Property Attached or Sequestered.*** The court from which a claim or cause of action has been removed must hold attached or sequestered property to answer the final judgment or decree in the same way it would have been held had there been no removal.<br>(2) ***Security.*** Any bond, undertaking, or security given by either party before the removal remains valid.<br>(3) ***Injunction.*** Any injunction or order issued, or other proceeding had, before the removal remains in effect until dissolved or modified by the court. |

**Committee Note**

The language of Rule 9027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The em dashes in Rule 9027(a)(1) have been deleted.

- In the heading to (a)(2) the word "Was" is changed to "Is".

- In Rule 9027(c), the words "the claim or cause of action" are replaced with the word "it".

- The heading to Rule 9027(e)(3) by replacing "to a Removed Claim" with "Other Than The Removing Party". In the text of that provision, the word "in" was replaced with "regarding." Clause (A) of (e)(3) has been modified to delete "of the bankruptcy court" and to insert "bankruptcy court's" before "entry". Clause (B) of (e)(3) has been modified to read "sign the

statement under Rule 9011.

• In Rule 9027(f) the word "then" was inserted after the second em dash, the phrase "as the Part VII rules provide" was replaced with "under the Part VII rules", and the phrase "to the court from which it was removed" was deleted.

• In (g)(1) a comma was inserted after the word "court" and the word "they" was inserted before the word "govern".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 9027(a)(1) and (a)(2)(C) the NBC suggests deleting the em dashes.

> ***Response***: The style consultants have already decided to remove the em dashes in (a)(1) but they are retaining the em dash in (a)(2)(C). This is a matter of style, and on style we defer to the style consultants. No change was made in response to this comment.

The NBC suggests substituting the words "Nonbankruptcy Court" for "Court from Which the Claim Was Removed" in the heading of Rule 9027(b).

> ***Response***: Neither the text of Rule 9027(a), nor any other rule, uses the term "nonbankruptcy court" so it would be inappropriate to use it in the heading. No change was made in response to this comment.

The NBC suggests deleting the words "After Removal' from the heading of Rule 9027(d) as unnecessary.

> ***Response:*** All of the headings of Rules 9027(a)-(a) have a form of the word "removal" in them. The word emphasizes that this rule is about removal. No change was made in response to this comment.

In the last sentence of (e)(1) the NBC believes the word "they" is ambiguous.

> ***Response***: The final two words of the prior sentence were "proper parties" and they are the only thing that could possibly be served with process. No change was made in response to this comment.

In (e)(3) the NBC suggests substituting "for a removed claim" for "in a removed claim".

> ***Response***: Suggestion accepted.

In (e)(3)(A) the NBC suggested redrafting the language to read "consent to the bankruptcy court's entry of a final judgment or order", consistent with Rule 9027(a)(1)(B).

***Response:*** Suggestion accepted.

In (e)(3)(B) the NBC suggests replacing the language with "sign the statement under Rule 9011."

***Response***: Suggestion accepted.

In (e)(3)(C), the NBC finds the word "it" to be ambiguous and suggests replacing it with "the statement".

***Response***: The entire section is dealing with the statement, and (e)(3)(A) and (B) both mention the statement. There is nothing else "it" could be. No change was made in response to this comment.

In (e)(3)(D) the NBC suggests adding the words "the statement" after "a copy".

***Response***: Again, the entire section deals with the statement. There is nothing else of which a copy could possibly be sent. No change was made in response to this comment.

In (f) the NBC finds the phrase "has been proved defective" awkward and suggests replacing it with "was defective".

***Response:*** We believe the word "proved" (in the original rule it was "proves") requires some court proceeding establishing the defectiveness of the service. Eliminating the word would be a substantive change. No change was made in response to this comment.

Also in (f) the NBC suggests rewriting the last clause of the first sentence to read "issued under the Part VII rules" rather than "issued as the Part VII rules provide".

***Response***: Suggestion accepted.

Also in (f) the NBC suggests deleting everything in the last sentence after the words "move to remand" as unnecessary and perhaps including a cross-reference to (d).

***Response***: We have removed the words "to the court from which it was removed". We do not think a cross-reference to (d) is necessary.

The NBC suggests deleting the em dash in (g)(2).

***Response***: this is matter of style, and on style we defer to the style consultants. No change was made in response to this comment.

In (g)(2)(A) and (h) the NBC suggests replacing the em dashes with commas.

***Response***: this is matter of style, and on style we defer to the style consultants. No change was made in response to this comment.

In (i)(1) the NBC suggests deleting the words "been held" as unnecessary.

> ***Response***: The words are in the original rule, and we think they enhance comprehension. No change was made in response to this comment.

- **Jeffrey Cozad (BK-2022-0002-0010)**

In Rule 9027(b)(2) Mr. Cozad believes the word "it" is unclear and should be replaced with "the claim or cause of action."

> ***Response***: There is nothing that "it" could be other than the claim or cause of action" (which is referred to in (b)(1). A "notice of removal" cannot be removed. No change was made in response to this comment.

Mr. Cozad questions the need for (e)(2), saying it replicates (a)(1)(C).

> ***Response***: (a)(1)(C) deals with the court from the party seeks removal; (e)(2) deals with the court to which the claim or cause of action has been removed. No change was made in response to this comment.

In (f) Mr. Cozad suggests insertion of the work "then" after the second em dash.

> ***Response***: We have inserted the word "then".

In (g)(1) Mr. Cozad suggests replacing "Repleading" with "Filing a new complaint".

> ***Response***: The term "repleading" is used in the current rule. No change was made in response to this comment.

In (g)(2)(C) Mr. Cozad suggests adding the words "and served on that defendant" after the words "notice of removal was filed".

> ***Response***: the comparable language in the original rule is "within seven days following the filing of the notice of removal"; it does not include any reference to service. This would be a substantive change and no change was made in response to this comment.

Mr. Cozad finds the language of (h) "award all process" to be confusing.

> ***Response***: The original language was "all process awarded". This is not substantively different. No change was made in response to this comment.

In Rule 9027(i)(3), Mr. Cozad believes the restyled language does not make clear which court can modify the injunction.

> ***Response***: The language "the court" has not changed from the original rule. Inserting any language before "court" would be a substantive change. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9028. Disability of a Judge** | **Rule 9028. Judge's Disability** |
| Rule 63 F.R.Civ.P. applies in cases under the Code. | Fed. R. Civ. P. 63 applies in a bankruptcy case. |

**Committee Note**

The language of Rule 9028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

- No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 9029. Local Bankruptcy Rules; Procedure When There is No Controlling Law** | **Rule 9029. Adopting Local Rules; Limit on Enforcing a Local Rule; Absence of Controlling Law** |
| (a) LOCAL BANKRUPTCY RULES.<br><br>(1) Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Rule 83 F.R.Civ.P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F.R.Civ.P., to make and amend rules of practice and procedure which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.<br><br>(2) A local rule imposing a requirement of form shall not be enforced in a manner that causes a party to lose rights because of a non-willful failure to comply with the requirement. | **(a) Adopting Local Rules.**<br><br>(1) ***By District Courts.*** Each district court, acting by a majority of its judges, may make and amend rules governing practice and procedure in all cases and proceedings within its bankruptcy jurisdiction. Fed. R. Civ. P. 83 governs the procedure for adopting local rules. The rules must:<br><br>(A) be consistent with—but not duplicate—~~federal statutes~~Acts of Congress and these rules;<br><br>(B) not prohibit or limit using Official Forms; and<br><br>(C) conform to any uniform numbering system prescribed by the Judicial Conference of the United States.<br><br>(2) ***Delegating Authority to the Bankruptcy Judges.*** A district court may—subject to any limitation or condition it may prescribe and Fed. R. Civ. P. 83—authorize the district's bankruptcy judges to ~~do the same~~make and amend local bankruptcy rules.<br><br>**(b) Limit on Enforcing a Local Rule Regarding Form.** A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right~~s~~ because of a nonwillful failure to comply. |
| (b) PROCEDURE WHEN THERE IS NO CONTROLLING LAW. A judge may regulate practice in any manner consistent with federal law, these rules, Official Forms, and local rules of the district. No sanction or other disadvantage may be imposed for | **(c) Procedure When There Is No Controlling Law.** A judge may regulate practice in any manner consistent with federal law, these rules, the Official Forms, and the district's local rules. ~~But for~~For any requirement set out elsewhere, a sanction or other disadvantage may be imposed for |

| ORIGINAL | REVISION |
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| noncompliance with any requirement not in federal law, federal rules, Official Forms, or the local rules of the district unless the alleged violator has been furnished in the particular case with actual notice of the requirement. | noncompliance only if the alleged violator ~~has been~~was given actual notice of the requirement in the particular case. |

**Committee Note**

The language of Rule 9029 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9029(a)(1)(A), the words "federal statutes" were replaced with "Acts of Congress."

- In Rule 9029(a)(2) the words "do the same" were replaced with "make and amend local bankruptcy rules".

- In Rule 9029(b) the words "lose rights" were replaced with "lose any right".

- In Rule 9029(c) the word "But" was deleted and the beginning of the second sentence and the word "For" was capitalized. The words "has been" were changed to "were".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

In Rule 9029(a)(1)(A) the NBC believes that changing "Acts of Congress" to "federal statutes" may be a substantive change, because not all acts of Congress are codified in the federal statutes.

***Response***: Comment is accurate, and we have changed the language back.

The NBC suggests replacing the em dashes in (a)(1)(A) with commas.

***Response***: This is a matter of style, and on style we defer to the style consultants. No change was made in response to this comment.

In Rule 9029(a)(2) the NBC finds "do the same" to be ambiguous and suggests replacing it with "make and amend local bankruptcy rules"

***Response***: Suggestion accepted.

In Rule 9029(c) the NBC suggests deleting the word "But" at the beginning of the second sentence as unnecessary.

> ***Response***: Suggestion accepted.

The NBC suggests rewriting (c) by replacing "For any requirement set out elsewhere" with "For any requirement not contained in any of the foregoing".

> ***Response***: We do not use the word "foregoing" in the restyled rules. No change was made in response to the comment.

In the second sentence of (c), the NBC suggests inserting the words "or proceeding" after the word "case".

> ***Response***: The original rule uses the phrase "particular case" without a reference to a proceeding. This would be a substantive change. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9030. Jurisdiction and Venue Unaffected** | **Rule 9030. Jurisdiction and Venue Not Extended or Limited** |
| These rules shall not be construed to extend or limit the jurisdiction of the courts or the venue of any matters therein. | These rules must not be construed to extend or limit the courts' jurisdiction ~~of the courts~~ or the venue of any matters. |

**Committee Note**

The language of Rule 9030 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- The title of the rule was modified by adding the phrase "Not Extended or Limited" to the end of it.

- The phrase "jurisdiction of the courts" was changed to "the courts' jurisdiction".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested retaining the original title of the rule because it is more descriptive.

> ***Response***: The word "unaffected" does not appear in the text, but we expanded the title to provide more information about the content of the rule.

| ORIGINAL | REVISION |
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| **Rule 9031. Masters Not Authorized** | **Rule 9031. Using Masters Not Authorized** |
| Rule 53 F.R.Civ.P. does not apply in cases under the Code. | Fed. R. Civ. P. 53 does not apply in a bankruptcy case. |

**Committee Note**

The language of Rule 9031 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- No changes were made after publication and comment.

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests deleting the word "Using" from the title of the Rule.

> ***Response***: We believe it is helpful in describing the content of Fed. R. Civ. P. 53. No change was made in response to this comment.

| ORIGINAL | REVISION |
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| **Rule 9032. Effect of Amendment of Federal Rules of Civil Procedure** | **Rule 9032. Effect of an Amendment to the Federal Rules of Civil Procedure** |
| The Federal Rules of Civil Procedure which are incorporated by reference and made applicable by these rules shall be the Federal Rules of Civil Procedure in effect on the effective date of these rules and as thereafter amended, unless otherwise provided by such amendment or by these rules. | To the extent these rules incorporate by reference the Federal Rules of Civil Procedure, an amendment to ~~the Federal Rules of Civil Procedure~~those rules is also effective under these rules, unless the amendment or these rules provide otherwise. |

**Committee Note**

The language of Rule 9032 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The second time the phrase "the Federal Rules of Civil Procedure" appeared it was replaced with "those rules".

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
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| **Rule 9033. Proposed Findings of Fact and Conclusions of Law** | **Rule 9033. Proposed Findings of Fact and Conclusions of Law** |
| (a) SERVICE. In a proceeding in which the bankruptcy court has issued proposed findings of fact and conclusions of law, the clerk shall serve forthwith copies on all parties by mail and note the date of mailing on the docket. | **(a) Service.** When a bankruptcy court issues proposed findings of fact and conclusions of law, the clerk must promptly serve a copy, by mail, on every party and must note the date of mailing on the docket. |
| (b) OBJECTIONS: TIME FOR FILING. Within 14 days after being served with a copy of the proposed findings of fact and conclusions of law a party may serve and file with the clerk written objections which identify the specific proposed findings or conclusions objected to and state the grounds for such objection. A party may respond to another party's objections within 14 days after being served with a copy thereof. A party objecting to the bankruptcy judge's proposed findings or conclusions shall arrange promptly for the transcription of the record, or such portions of it as all parties may agree upon or the bankruptcy judge deems sufficient, unless the district judge otherwise directs. | **(b) Objections; Time to File.**<br>(1) ***Time to File.*** Within 14 days after being served, a party may file and serve objections. ~~The objections~~They must identify each proposed finding or conclusion objected to and state the grounds for objecting. A party may respond to another party's objections within 14 days after being served with a copy.<br>(2) ***Ordering a Transcript.*** Unless the district judge orders otherwise, a party filing objections must promptly order a transcript of the record, ~~—~~or the parts of it that all parties agree ~~to~~ are~~—~~or the bankruptcy judge considers to be~~—~~sufficient. |
| (c) EXTENSION OF TIME. The bankruptcy judge may for cause extend the time for filing objections by any party for a period not to exceed 21 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing objections must be made before the time for filing objections has expired, except that a request made no more than 21 days after the expiration of the time for filing objections may be granted upon a showing of excusable neglect. | (3) ***Extending the Time.*** On request made before the time to file objections expires, the bankruptcy judge may, for cause, extend ~~the~~ any party's time to file ~~for any party~~ for no more than 21 days after the time otherwise ~~provided by this rule~~ expires. But a request made within 21 days after that time expires may be granted upon a showing of excusable neglect. |

| ORIGINAL | REVISION |
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| (d) STANDARD OF REVIEW. The district judge shall make a de novo review upon the record or, after additional evidence, of any portion of the bankruptcy judge's findings of fact or conclusions of law to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the proposed findings of fact or conclusions of law, receive further evidence, or recommit the matter to the bankruptcy judge with instructions. | **(c) Review by the District Judge.** The district judge:<br>(1) must review de novo—on the record or after receiving additional evidence—any part of the bankruptcy judge's findings of fact or conclusions of law to which specific written objection has been made under (b); and<br>(2) may accept, reject, or modify ~~them~~the proposed findings of fact or conclusions of law, take additional evidence, or remand the matter to the bankruptcy judge with instructions. |

**Committee Note**

The language of Rule 9033 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9033(b)(1) the words "The objections" were replaced with "They".

In (b)(2), the em cash was replaced with a comma, and the phrase "agree to or the bankruptcy judge considers sufficient" is changed to "agree are—or the bankruptcy judge considers to be—sufficient."

In (b)(3) the phrase "the time to file for any party" was replaced with "any party's time to file, and the words "provided by this rule" were deleted.

In (c)(2) the word "them" was replaced with "the proposed findings of fact or conclusions of law".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests deleting the words "Time to File" from the title of Rule 9033(b) because "Time to File" is the name of (b)(1).

***Response***: We believe the title of rules and of subsections of rules should

describe their content, and Rule 9033(b) covers the time to file. No change was made in response to this comment.

The NBC suggests combining the first two sentences of (b)(1) as in the original rule "to enhance readability and comprehensibility and eliminate ambiguity in the first sentence as to what is being objected to".

***Response***: One of the goals of restyling is to break long sentences into short ones that are easier to understand. We think the second sentence makes quite clear to what the party may be objecting. No change was made in response to this comment.

In (b)(2) the NBC points out that the restyling no longer expresses the meaning of the original rule. The parties are not agreeing to anything; they are agreeing that the parts are sufficient.

***Response***: The section has been rewritten to make the meaning more clear.

The NBC suggests deleting the word "expires" at the end of the first sentence and the middle of the second sentence of Rule 9033(b)(3).

***Response***: The word comes from the original rule (which used the word "expiration" and "expired"). We believe it is necessary. No change was made in response to this comment.

In Rule 9033(b)(3), the NBC suggests deleting the word "But" at the beginning of the last sentence.

***Response***: This is a matter of style, and on style we defer to the style consultants. No change was made in response to this suggestion.

In Rule 9033(c)(2), the NBC believes that the word "them" is ambiguous and potentially alters the meaning of the current rule. The current rule contemplates that the district judge will accept, reject or modify the findings of fact or conclusions of law as a whole. The restyled version could be interpreted to provide that the district judge will accept, reject, or modify only those findings of fact or conclusions of law described in (c)(1), which are those to which a specific objection has been made. The NBC suggests returning to the original language.

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9034. Transmittal of Pleadings, Motion Papers, Objections, and Other Papers to the United States Trustee** | **Rule 9034. Sending Copies to the United States Trustee** |
| Unless the United States trustee requests otherwise or the case is a chapter 9 municipality case, any entity that files a pleading, motion, objection, or similar paper relating to any of the following matters shall transmit a copy thereof to the United States trustee within the time required by these rules for service of the paper:<br>(a) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business;<br>(b) the approval of a compromise or settlement of a controversy;<br>(c) the dismissal or conversion of a case to another chapter;<br>(d) the employment of professional persons;<br>(e) an application for compensation or reimbursement of expenses;<br>(f) a motion for, or approval of an agreement relating to, the use of cash collateral or authority to obtain credit;<br>(g) the appointment of a trustee or examiner in a chapter 11 reorganization case;<br>(h) the approval of a disclosure statement;<br>(i) the confirmation of a plan;<br>(j) an objection to, or waiver or revocation of, the debtor's discharge;<br>(k) any other matter in which the United States trustee requests copies of filed papers or the court orders copies | Except in a Chapter 9 case or when the United States trustee requests otherwise, an entity filing a pleading, motion, objection, or similar document relating to any of the following must send a copy to the United States trustee within the time required for service:<br>(a) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business;<br>(b) the approval of a compromise or settlement of a controversy;<br>(c) the dismissal or conversion of a case to another chapter;<br>(d) the employment of a professional person;<br>(e) an application for compensation or reimbursement of expenses;<br>(f) a motion for, or the approval of an agreement regarding, the use of cash collateral or ~~the~~ authority to obtain credit;<br>(g) the appointment of a trustee or examiner in a Chapter 11 case;<br>(h) the approval of a disclosure statement;<br>(i) the confirmation of a plan;<br>(j) an objection to, or waiver or revocation of, the debtor's discharge; or<br>(k) any other matter in which the United States trustee requests copies of filed ~~papers~~ documents or the court orders copies sent to the United States trustee. |

| ORIGINAL | REVISION |
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| transmitted to the United States trustee. | |

**Committee Note**

The language of Rule 9034 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In Rule 9034(f), the word "the" was deleted before "authority".
- In Rule 9034(k) the word "papers" was replaced with "documents".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests the deletion of the word "the" before "authority" in Rule 9034(f).

***Response***: Suggestion accepted.

In Rule 9034(k) the NBC suggests replacing the word "papers" with "documents" consistent with the style throughout the restyled rules.

***Response***: Suggestion accepted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9035. Applicability of Rules in Judicial Districts in Alabama and North Carolina** | **Rule 9035. Applying These Rules in a Judicial District in Alabama ~~and~~ or North Carolina** |
| In any case under the Code that is filed in or transferred to a district in the State of Alabama or the State of North Carolina and in which a United States trustee is not authorized to act, these rules apply to the extent that they are not inconsistent with any federal statute effective in the case. | In a bankruptcy case filed in or transferred to a district in Alabama or North Carolina and in which a United States trustee is not authorized to act, these rules apply to the extent they are not inconsistent with any applicable federal statute. |

**Committee Note**

The language of Rule 9035 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In the title to the rule, the word "and" has been changed to "or".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggests that the word "and" be changed to "or" in the title to the rule.

***Response***: The change has already been made.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9036. Notice and Service by Electronic Transmission** | **Rule 9036. Electronic Notice and Service** |
| (a) IN GENERAL. This rule applies whenever these rules require or permit sending a notice or serving a paper by mail or other means. | **(a) In General.** This rule applies whenever these rules require or permit sending a notice or serving a document by mail or other means. |
| (b) NOTICES FROM AND SERVICE BY THE COURT. | **(b) Notices ~~From~~ from and Service by the Court.** |
| (1) *Registered Users*. The clerk may send notice to or serve a registered user by filing the notice or paper with the court's electronic-filing system. | (1) ***To Registered Users***. The clerk may send notice to or serve a registered user by filing the notice or document with the court's electronic-filing system. |
| (2) *All Recipients*. For any recipient, the clerk may send notice or serve a paper by electronic means that the recipient consented to in writing, including by designating an electronic address for receipt of notices. But these exceptions apply: | (2) ***To All Recipients***. For any recipient, the clerk may send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But these exceptions apply: |
| (A) if the recipient has registered an electronic address with the Administrative Office of the United States Courts' bankruptcy-noticing program, the clerk shall send the notice to or serve the paper at that address; and | (A) if the recipient has registered an electronic address with the Administrative Office of the United States Courts' bankruptcy-noticing program, the clerk must use that address; and |
| (B) if an entity has been designated by the Director of the Administrative Office of the United States Courts as a high-volume paper-notice recipient, the clerk may send the notice to or serve the paper electronically at an address designated by | (B) if an entity has been designated by the Director of the Administrative Office of the United States Courts as a high-volume paper-notice recipient, the clerk may send the notice to or serve the document electronically at an address designated by the Director, unless the entity has designated an address under § 342(e) or (f). |
| | **(c) Notices ~~From~~ from and Service by an Entity.** An entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B). |

| ORIGINAL | REVISION |
|---|---|
| the Director, unless the entity has designated an address under § 342(e) or (f) of the Code.<br><br>(c) NOTICES FROM AND SERVICE BY AN ENTITY. An entity may send notice or serve a paper in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B).<br><br>(d) COMPLETING NOTICE OR SERVICE. Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be served. It is the recipient's responsibility to keep its electronic address current with the clerk.<br><br>(e) INAPPLICABILITY. This rule does not apply to any paper required to be served in accordance with Rule 7004. | **(d) ~~Completing~~ When Notice or Service Is Complete; Keeping an Address Current.** Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served. The recipient must keep its electronic address current with the clerk.<br><br>**(e) Inapplicability**. This rule does not apply to any document required to be served in accordance with Rule 7004. |

**Committee Note**

The language of Rule 9036 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

- In the titles of (b) and (c) the word "from" was changed to lower case.

- In the titles of (b)(1) and (b)(1) the word "To" was inserted at the beginning.

- In (d), the title of the section was changed from "completing Notice of Service" to "When Notice or service Is Complete; Keeping an Address Current".

**Summary of Public Comment**

• No comments were submitted.

| ORIGINAL | REVISION |
|---|---|
| **Rule 9037. Privacy Protection For Filings Made with the Court** | **Rule 9037. Protecting Privacy for Filings** |
| (a) REDACTED FILINGS. Unless the court orders otherwise, in an electronic or paper filing made with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual, other than the debtor, known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing may include only:<br>(1) the last four digits of the social-security number and taxpayer-identification number;<br>(2) the year of the individual's birth;<br>(3) the minor's initials; and<br>(4) the last four digits of the financial-account number. | **(a) Redacted Filings.** Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual other than the debtor known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing may include only:<br>(1) the last four digits of a social-security and taxpayer-identification number;<br>(2) the year of the individual's birth;<br>(3) the minor's initials; and<br>(4) the last four digits of the financial-account number. |
| (b) EXEMPTIONS FROM THE REDACTION REQUIREMENT. The redaction requirement does not apply to the following:<br>(1) a financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;<br>(2) the record of an administrative or agency proceeding unless filed with a proof of claim;<br>(3) the official record of a state-court proceeding;<br>(4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;<br>(5) a filing covered by subdivision (c) of this rule; and | **(b) Exemptions from the Redaction Requirement.** The redaction requirement does not apply to the following:<br>(1) a financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;<br>(2) the record of an administrative or agency proceeding, unless filed with a proof of claim;<br>(3) the official record of a state-court proceeding;<br>(4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;<br>(5) a filing covered by (c); and<br>(6) a filing subject to § 110. |

| ORIGINAL | REVISION |
|---|---|
| (6) a filing that is subject to § 110 of the Code. | |
| (c) FILINGS MADE UNDER SEAL. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the entity that made the filing to file a redacted version for the public record. | **(c) Filings Made Under Seal.** The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the entity that made it to file a redacted version for the public record. |
| (d) PROTECTIVE ORDERS. For cause, the court may by order in a case under the Code:<br>(1) require redaction of additional information; or<br>(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court. | **(d) Protective Orders.** For cause, the court may by order in a case ~~under the Code~~:<br>(1) require redaction of additional information; or<br>(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court. |
| (e) OPTION FOR ADDITIONAL UNREDACTED FILING UNDER SEAL. An entity making a redacted filing may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record. | **(e) Option for Additional Unredacted Document Under Seal.** An entity filing a redacted document may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record. |
| (f) OPTION FOR FILING A REFERENCE LIST. A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. | **(f) Option for Filing a Reference List.** A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. A reference in the case to a listed identifier will be construed to refer to the corresponding item of information. |
| (g) WAIVER OF PROTECTION OF IDENTIFIERS. An entity waives the protection of subdivision (a) as to the entity's own information by filing it without redaction and not under seal. | **(g) Waiver of Protection of Identifiers.** An entity waives the protection of (a) for the entity's own information by filing it without redaction and not under seal. |

| ORIGINAL | REVISION |
|---|---|
| (h) MOTION TO REDACT A PREVIOUSLY FILED DOCUMENT.<br><br>(1) *Content of the Motion; Service.* Unless the court orders otherwise, if an entity seeks to redact from a previously filed document information that is protected under subdivision (a), the entity must:<br><br>(A) file a motion to redact identifying the proposed redactions;<br><br>(B) attach to the motion the proposed redacted document;<br><br>(C) include in the motion the docket or proof-of-claim number of the previously filed document; and<br><br>(D) serve the motion and attachment on the debtor, debtor's attorney, trustee (if any), United States trustee, filer of the unredacted document, and any individual whose personal identifying information is to be redacted.<br><br>(2) *Restricting Public Access to the Unredacted Document; Docketing the Redacted Document.* The court must promptly restrict public access to the motion and the unredacted document pending its ruling on the motion. If the court grants it, the court must docket the redacted document. The restrictions on public access to the motion and unredacted document remain in effect until a further court order. If the court denies it, the restrictions must be lifted, unless the court orders otherwise. | **(h) Motion to Redact a Previously Filed Document.**<br><br>(1) ***Content; Service.*** Unless the court orders otherwise, an entity seeking to redact from a previously filed document information that is protected under (a) must:<br><br>(A) file a motion that identifies the proposed redactions;<br><br>(B) attach to it the proposed redacted document;<br><br>(C) include the docket number—or proof-of-claim number—of the previously filed document; and<br><br>(D) serve the motion and attachment on~~:~~:<br><br>• the debtor;<br><br>• the debtor's attorney;<br><br>• any trustee;<br><br>• the United States trustee;<br><br>• the ~~person~~ entity that~~who~~ filed the unredacted document; and<br><br>• any individual whose personal identifying information is to be redacted.<br><br>(2) ***Restricting Public Access to the Unredacted Document; Docketing the Redacted Document.*** Pending its ruling, the court must promptly restrict access to the motion and the unredacted document. If the court grants the motion, the clerk must docket the redacted document. The restrictions on public access to the motion and unredacted document remain in effect until a further court order. If the court denies the motion, the restrictions must be lifted, unless the court orders otherwise. |

**Committee Note**

The language of Rule 9037 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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**Changes Made After Publication and Comment**

• The headings of all subsections that were restyled were returned to the versions in the existing rule and which also appear in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1.

• In Rule 9037(d) the words "under the Code" were deleted.

• In the fifth bullet points of Rule 9037(h)(1)(D), the words "person who" were changed to "entity that".

**Summary of Public Comment**

**• National Bankruptcy Conference (BK-2022-0002-0007) (NBC)**

The NBC suggested deleting "with the court" after "filing" in Rule 9037(a).

> ***Response***: Rule 9037(a)-(g) are identical to the privacy rules for the Fed. R. Civ. P. (4.2) and the Fed. R. Crim. P. (49.1). We do not intend to stylize them.

The NBC suggests changing the subheading of (c) to Order to File Under Seal".

> ***Response***: Rule 9037(a)-(g) are identical to the privacy rules for the Fed. R. Civ. P. (4.2) and the Fed. R. Crim. P. (49.1). We do not intend to stylize them.

The NBC suggested a complete redrafting of Rule 9037(d).

> ***Response***: Rule 9037(a)-(g) are identical to the privacy rules for the Fed. R. Civ. P. (4.2) and the Fed. R. Crim. P. (49.1). We do not intend to stylize them.

In Rule 9037(h)(1)(B), the NBC finds the word "it" to be ambiguous. If you read (B) immediately after reading the prefatory language, the "it" has no antecedent. They suggest replacing it with the words "the motion".

> ***Response***: The style consultants have consistently taken the position that the "it" refers to the subject of the prior subsection, even if the prefatory language does not include that subject. No change was made in response to this comment.

The NBC notes that the semi-colon before the bullet points should be a colon.

***Response***: Suggestion accepted.

The NBC suggests that the word "person" in the fifth bullet point of (h)(1)(C) be changed to "entity", which is more inclusive.

***Response***: Suggestion accepted.

- **Jeffrey Cozad (BK-2022-0002-0010)**

Mr. Cozad suggests changing the title of Rule 9037(h) to Motion to File a Redacted Version of a Previously Filed Document". He thinks the current title suggests that the filer needs permission to do the redaction. Similarly he would change the language of (h)(1) from "seeking to redact from a previously filed document" to "seeing to file a redacted version of a previously filed document".

***Response***: Mr. Cozad's language would suggest that the rule is doing nothing with respect to the unredacted document already filed. The purpose of the rule is in fact to have a process to redact a document after it has been filed. That process does involve filing a redacted version of that document, but that is just the process for redacting. No change was made in response to this comment.

| ORIGINAL[2] | REVISION |
|---|---|
| **Rule 9038. Bankruptcy Rules Emergency** | **Rule 9038. Bankruptcy Rules Emergency** |
| (a) CONDITIONS FOR AN EMERGENCY. The Judicial Conference of the United States may declare a Bankruptcy Rules emergency if it determines that extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a bankruptcy court, substantially impair the court's ability to perform its functions in compliance with these rules. | **(a) ~~CONDITIONS FOR AN EMERGENCY~~Conditions for an Emergency.** The Judicial Conference of the United States may declare a Bankruptcy Rules emergency if it determines that extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a bankruptcy court, substantially impair the court's ability to perform its functions in compliance with these rules. |
| (b) DECLARING AN EMERGENCY.<br>(1) *Content.* The declaration must:<br>(A) designate the bankruptcy court or courts affected;<br>(B) state any restrictions on the authority granted in (c); and<br>(C) be limited to a stated period of no more than 90 days.<br>(2) *Early Termination.* The Judicial Conference may terminate a declaration for one or more bankruptcy courts before the termination date.<br>(3) *Additional Declarations.* The Judicial Conference may issue additional declarations under this rule. | **(b) ~~DECLARING AN EMERGENCY~~ Declaring an Emergency.**<br>(1) ***Content***. The declaration must:<br>(A) designate the bankruptcy court or courts affected;<br>(B) state any restrictions on the authority granted in (c); and<br>(C) be limited to a stated period of no more than 90 days.<br>(2) ***Early Termination***. The Judicial Conference may terminate a declaration for one or more bankruptcy courts before the termination date.<br>(3) ***Additional Declarations***. The Judicial Conference may issue additional declarations under this rule. |
| (c) TOLLING AND EXTENDING TIME LIMITS.<br>(1) *In an Entire District or Division.* When an emergency is in effect for a bankruptcy court, the chief bankruptcy judge may, for all cases and proceedings in the district or in a division:<br>(A) order the extension or tolling of a Bankruptcy Rule, local | **(c) ~~TOLLING AND EXTENDING TIME LIMITS~~Tolling and Extending Time Limits.**<br>(1) ***In an Entire District or Division.*** When an emergency is in effect for a bankruptcy court, the chief bankruptcy judge may, for all cases and |

[2] Rule 9038 is scheduled to become effective on Dec. 1, 2023. The only changes are to the font of headings in its subsections to conform with the restyled rules.

| ORIGINAL[2] | REVISION |
|---|---|
| rule, or order that requires or allows a court, a clerk, a party in interest, or the United States trustee, by a specified deadline, to commence a proceeding, file or send a document, hold or conclude a hearing, or take any other action, despite any other Bankruptcy Rule, local rule, or order; or<br><br>(B) order that, when a Bankruptcy Rule, local rule, or order requires that an action be taken "promptly," "forthwith," "immediately," or "without delay," it be taken as soon as is practicable or by a date set by the court in a specific case or proceeding.<br><br>(2) *In a Specific Case or Proceeding.* When an emergency is in effect for a bankruptcy court, a presiding judge may take the action described in (1) in a specific case or proceeding.<br><br>(3) *When an Extension or Tolling Ends.* A period extended or tolled under (1) or (2) terminates on the later of:<br><br>(A) the last day of the time period as extended or tolled or 30 days after the emergency declaration terminates, whichever is earlier; or<br><br>(B) the last day of the time period originally required, imposed, or allowed by the relevant Bankruptcy Rule, local rule, or order that was extended or tolled.<br><br>(4) *Further Extensions or Shortenings.* A presiding judge may lengthen or shorten an extension or tolling in a specific case or proceeding. The judge may do so only for good cause after notice and a hearing and only on the judge's own motion or on motion of a party in interest or the United States trustee. | proceedings in the district or in a division:<br><br>(A) order the extension or tolling of a Bankruptcy Rule, local rule, or order that requires or allows a court, a clerk, a party in interest, or the United States trustee, by a specified deadline, to commence a proceeding, file or send a document, hold or conclude a hearing, or take any other action, despite any other Bankruptcy Rule, local rule, or order; or<br><br>(B) order that, when a Bankruptcy Rule, local rule, or order requires that an action be taken "promptly," "forthwith," "immediately," or "without delay," it be taken as soon as is practicable or by a date set by the court in a specific case or proceeding.<br><br>(2) ***In a Specific Case or Proceeding.*** When an emergency is in effect for a bankruptcy court, a presiding judge may take the action described in (1) in a specific case or proceeding.<br><br>(3) ***When an Extension or Tolling Ends.*** A period extended or tolled under (1) or (2) terminates on the later of:<br><br>(A) the last day of the time period as extended or tolled or 30 days after the emergency declaration terminates, whichever is earlier; or<br><br>(B) the last day of the time period originally required, imposed, or allowed by the relevant Bankruptcy Rule, local rule, or order that was extended or tolled.<br><br>(4) ***Further Extensions or Shortenings.*** A presiding judge may lengthen or shorten an extension or tolling in a specific case or proceeding. The judge |

| ORIGINAL[2] | REVISION |
| --- | --- |
| (5) *Exception.* A time period imposed by statute may not be extended or tolled. | may do so only for good cause after notice and a hearing and only on the judge's own motion or on motion of a party in interest or the United States trustee.<br>(5) ***Exception.*** A time period imposed by statute may not be extended or tolled. |

**Committee Note**

The language of Rule 9029 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# TAB 8A2

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON RESTYLING

SUBJECT: RESTYLING OF FEDERAL RULES OF BANKRUPTCY PROCEDURE – PARTS I - VI

DATE: FEB. 28, 2023

Parts I and II of the restyled Federal Rules of Bankruptcy Procedure were given final approval after publication by the Advisory Committee in March 2021 and by the Standing Committee in June 2021. Parts III – VI were given final approval after publication by the Advisory Committee in March 2022 and by the Standing Committee in June 2022. (Parts VII – IX are being presenting for final approval by the Advisory Committee at this meeting.)

Since they were approved, Parts I – VI have been modified in minor respects for three reasons.

1) there have been substantive amendments to the existing Federal Rules of Bankruptcy Procedure that needed to be reflected in the restyled versions of those rules;

2) the style consultants did a "top-to-bottom" review of all the rules, and made additional stylistic and conforming changes; and

3) in reviewing the proposed changes of the style consultants, the Subcommittee suggested its own additional corrections and minor changes.

A copy of Parts I – VI showing changes from the versions that were previously approved is attached.

The Subcommittee asks the Advisory Committee to give final approval to Parts I – VI of the restyled Federal Rules of Bankruptcy Procedure and submit them to the Standing Committee for final approval.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 1000 Series

| ORIGINAL | REVISION |
|---|---|
| **Rule 1001. Scope of Rules and Forms; Short Title** | **Rule 1001. Scope; Title; Citations; References to a Specific Form** |
| The Bankruptcy Rules and Forms govern procedure in cases under title 11 of the United States Code. The rules shall be cited as the Federal Rules of Bankruptcy Procedure and the forms as the Official Bankruptcy Forms. These rules shall be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding. | **(a) In General.** These rules, together with the Official ~~bankruptcy~~ Bankruptcy ~~forms~~Forms, govern the procedure in cases under the Bankruptcy Code, Title 11 of the United States Code. They must be construed, administered, and employed by both the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding.<br>**(b) Title<u>s</u>.** These rules should be referred to as the Federal Rules of Bankruptcy Procedure and the forms as the Official Bankruptcy Forms.<br>**(c) Citations.** In these rules, the Bankruptcy Code is cited with a section sign and number (§ 101). A rule is cited with "Rule" followed by the rule number (Rule 1001(a)).<br>**(d) References to a Specific Form.** A reference to a "Form" followed by a number is a reference to an Official Bankruptcy Form. |

**Committee Note**

The Bankruptcy Rules are the fifth set of national procedural rules to be restyled. The restyled Rules of Appellate Procedure took effect in 1998. The restyled Rules of Criminal Procedure took effect in 2002. The restyled Rules of Civil Procedure took effect in 2007. The restyled Rules of Evidence took effect in 2011. The restyled Bankruptcy Rules apply the same general drafting guidelines and principles used in restyling the Appellate, Criminal, Civil, and Evidence Rules.

General Guidelines. Guidance in drafting, usage, and style was provided by Bryan A. Garner, *Guidelines for Drafting and Editing Court Rules*, Administrative Office of the United States Courts (1996) and Bryan A. Garner, *Dictionary of Modern Legal Usage* (2d ed. 1995). *See also* Joseph Kimble, *Guiding Principles for Restyling the Civil Rules*, in Preliminary Draft of Proposed Style Revision of the Federal Rules of Civil Procedure, at Michigan Bar Journal, page 52 (Feb. 2005) (available at https://www.michbar.org/file/barjournal/article/documents/ pdf4article909.pdf and https://www.michbar.org/file/barjournal/article/documents/ pdf4article921.pdf); Joseph Kimble, *Lessons in Drafting from the New Federal Rules of Civil Procedure*, 12 Scribes J. Legal Writing 25 (2008-2009).

Formatting Changes. Many of the changes in the restyled Bankruptcy Rules result from using format to achieve clearer presentations. The rules are broken down into constituent parts, using progressively indented subparagraphs with headings and substituting vertical for horizontal lists. "Hanging indents" are used throughout. These formatting changes make the structure of the rules graphic and make the restyled rules easier to read and understand even when the words are not changed.

Changes to Reduce Inconsistent, Ambiguous, Redundant, Repetitive, or Archaic Words. The restyled rules reduce the use of inconsistent terms that say the same thing in different ways. Because different words are presumed to have different meanings, such inconsistencies can result in confusion. The restyled rules reduce inconsistencies by using the same words to express the same meaning. The restyled rules also minimize the use of inherently ambiguous words. The restyled rules minimize the use of redundant "intensifiers." These are expressions that attempt to add emphasis, but instead state the obvious and create negative implications for other rules. The absence of intensifiers in the restyled rules does not change their substantive meaning. The restyled rules also remove words and concepts that are outdated or redundant.

Rule Numbers. The restyled rules keep the same numbers to minimize the effect on research. Subdivisions have been rearranged within some rules to achieve greater clarity and simplicity.

No Substantive Change. The style changes to the rules are intended to make no changes in substantive meaning. The Committee made special efforts to reject any purported style improvement that might result in a substantive change in the application of a rule. The Committee also declined to modify "sacred phrases"—those that have become so familiar in practice that to alter them would be unduly disruptive to practice and expectations. An example in the Bankruptcy Rules would be "meeting of creditors."

Legislative Rules. In those cases in which Congress enacted a rule by statute, in particular Rule 2002(n) (Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. 98-353, 98 Stat. 357), Rule 3001(g) (Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, 98 Stat. 361), and Rule 7004(b) and (h) (Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106), the Committee has not restyled the rule.

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| PART I—COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF | **PART I. COMMENCING A BANKRUPTCY CASE; THE PETITION, THE ORDER FOR RELIEF, AND RELATED MATTERS** |
| **Rule 1002. Commencement of Case** | **Rule 1002. Commencing a Bankruptcy Case** |
| (a) PETITION. A petition commencing a case under the Code shall be filed with the clerk. | **(a) In General.** A bankruptcy case is commenced by filing a petition with the clerk. |
| (b) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of the petition filed pursuant to subdivision (a) of this rule. | **(b) Copy to the United States Trustee.** The clerk must promptly send a copy of the petition to the United States trustee. |

**Committee Note**

The language of Rule 1002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1003. Involuntary Petition** | **Rule 1003. Involuntary Petition: Transferred Claims; Joining Other Creditors; Additional Time to Join** |
| (a) TRANSFEROR OR TRANSFEREE OF CLAIM. A transferor or transferee of a claim shall annex to the original and each copy of the petition a copy of all documents evidencing the transfer, whether transferred unconditionally, for security, or otherwise, and a signed statement that the claim was not transferred for the purpose of commencing the case and setting forth the consideration for and terms of the transfer. An entity that has transferred or acquired a claim for the purpose of commencing a case for liquidation under chapter 7 or for reorganization under chapter 11 shall not be a qualified petitioner. | **(a) Transferred Claims.** An entity that has transferred or acquired a claim for the purpose of commencing an involuntary case under Chapter 7 or Chapter 11 is not a qualified petitioner. A petitioner that has transferred or acquired a claim must attach to the petition and to any copy:<br>(1) all documents evidencing the transfer, whether it was unconditional, for security, or otherwise; and<br>(2) a signed statement that:<br>(A) affirms that the claim was not transferred for the purpose of commencing the case; and<br>(B) sets forth the consideration for the transfer and its terms. |
| (b) JOINDER OF PETITIONERS AFTER FILING. If the answer to an involuntary petition filed by fewer than three creditors avers the existence of 12 or more creditors, the debtor shall file with the answer a list of all creditors with their addresses, a brief statement of the nature of their claims, and the amounts thereof. If it appears that there are 12 or more creditors as provided in § 303(b) of the Code, the court shall afford a reasonable opportunity for other creditors to join in the petition before a hearing is held thereon. | **(b) Joining Other Creditors After Filing.** If an involuntary petition is filed by fewer than 3 creditors and the debtor's answer alleges the existence of 12 or more creditors as provided in § 303(b), the debtor must attach to the answer:<br>(1) the names and addresses of all creditors; and<br>(2) a brief statement of the nature and amount of each creditor's claim.<br>**(c) Additional Time to Join.** If there appear to be 12 or more creditors, the court must allow a reasonable time for other creditors to join the petition before holding a hearing on it. |

**Committee Note**

The language of Rule 1003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent

throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1004. Involuntary Petition Against a Partnership** | **Rule 1004. Involuntary Petition Against a Partnership** |
| After filing of an involuntary petition under § 303(b)(3) of the Code, (1) the petitioning partners or other petitioners shall promptly send to or serve on each general partner who is not a petitioner a copy of the petition; and (2) the clerk shall promptly issue a summons for service on each general partner who is not a petitioner. Rule 1010 applies to the form and service of the summons. | A petitioner who files an involuntary petition against a partnership under § 303(b)(3) must promptly send a copy of the petition to—or serve a copy on—each general partner who is not a petitioner. The clerk must promptly issue a summons for service on any general partner who is not a petitioner. Rule 1010 governs the form and service of the summons. |

**Committee Note**

The language of Rule 1004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1004.1. Petition for an Infant or Incompetent Person** | **Rule 1004.1. Voluntary Petition on Behalf of an Infant or Incompetent Person** |
| If an infant or incompetent person has a representative, including a general guardian, committee, conservator, or similar fiduciary, the representative may file a voluntary petition on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may file a voluntary petition by next friend or guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person who is a debtor and is not otherwise represented or shall make any other order to protect the infant or incompetent debtor. | **(a) Represented Infant or Incompetent Person.** If an infant or an incompetent person has a representative—such as a general guardian, committee, conservator, or similar fiduciary—the representative may file a voluntary petition on behalf of the infant or incompetent person.<br><br>**(b) Unrepresented Infant or Incompetent Person.** If an infant or an incompetent person does not have a representative:<br><br>(1) a next friend or guardian ad litem may file the petition; and<br><br>(2) the court must appoint a guardian ad litem or issue any other order needed to protect the interests of the infant debtor or incompetent debtor. |

**Committee Note**

The language of Rule 1004.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1004.2. Petition in Chapter 15 Cases** | **Rule 1004.2. Petition in a Chapter 15 Case** |
| (a) DESIGNATING CENTER OF MAIN INTERESTS. A petition for recognition of a foreign proceeding under chapter 15 of the Code shall state the country where the debtor has its center of main interests. The petition shall also identify each country in which a foreign proceeding by, regarding, or against the debtor is pending. | **(a) Designating the Center of Main Interests.** A petition under Chapter 15 for recognition of a foreign proceeding must:<br>(1) designate the country where the debtor has its center of main interests; and<br>(2) identify each country in which a foreign proceeding ~~is pending~~ against, by, or regarding the debtor is pending. |
| (b) CHALLENGING DESIGNATION. The United States trustee or a party in interest may file a motion for a determination that the debtor's center of main interests is other than as stated in the petition for recognition commencing the chapter 15 case. Unless the court orders otherwise, the motion shall be filed no later than seven days before the date set for the hearing on the petition. The motion shall be transmitted to the United States trustee and served on the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor was a party as of the time the petition was filed, and such other entities as the court may direct. | **(b) Challenging the Designation.** The United States trustee or a party in interest may~~, by~~ file a motion~~, challenge~~ challenging the designation. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. Unless the court orders otherwise, the motion must be filed at least 7 days before the date set for the hearing on the petition. The motion must be served on:<br>• the debtor;<br>• all persons or bodies authorized to administer the debtor's foreign proceedings;<br>• all entities against whom provisional relief is sought under § 1519;<br>• all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and<br>• any other entity as the court orders. |

**Committee Note**

The language of Rule 1004.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1005. Caption of Petition** | **Rule 1005. Caption of a Petition; Title of the Case** |
| The caption of a petition commencing a case under the Code shall contain the name of the court, the title of the case, and the docket number. The title of the case shall include the following information about the debtor: name, employer identification number, last four digits of the social-security number or individual debtor's taxpayer-identification number, any other federal taxpayer-identification number, and all other names used within eight years before filing the petition. If the petition is not filed by the debtor, it shall include all names used by the debtor which are known to the petitioners. | **(a) Caption and Title; Required Information.** A petition's caption must contain the name of the court, the title of the case, and the case number (if known). The title must include the following information about the debtor:<br>(1) name;<br>(2) employer-identification number;<br>(3) the last 4 digits of the social-security number or individual taxpayer-identification number;<br>(4) any other federal taxpayer-identification number; and<br>(5) all other names the debtor has used within 8 years before the petition was filed.<br>**(b) Petition Not Filed by the Debtor.** A petition not filed by the debtor must include all names that the petitioner knows have been used by the debtor. |

**Committee Note**

The language of Rule 1005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1006. Filing Fee** | **Rule 1006. Filing Fee** |
| (a) GENERAL REQUIREMENT. Every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c) of this rule. For the purpose of this rule, "filing fee" means the filing fee prescribed by 28 U.S.C. § 1930(a)(1)–(a)(5) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code. | **(a) In General.** Unless (b) or (c) applies, every petition must be accompanied by the filing fee. In this rule "filing fee" means:<br>(1) the filing fee required by 28 U.S.C. § 1930(a)(1)–(5); and<br>(2) any other fee that the Judicial Conference of the United States requires under 28 U.S.C. § 1930(b) to be paid upon filing. |
| (b) PAYMENT OF FILING FEE IN INSTALLMENTS.<br>(1) *Application to Pay Filing Fee in Installments.* A voluntary petition by an individual shall be accepted for filing, regardless of whether any portion of the filing fee is paid, if accompanied by the debtor's signed application, prepared as prescribed by the appropriate Official Form, stating that the debtor is unable to pay the filing fee except in installments.<br>(2) *Action on Application.* Prior to the meeting of creditors, the court may order the filing fee paid to the clerk or grant leave to pay in installments and fix the number, amount and dates of payment. The number of installments shall not exceed four, and the final installment shall be payable not later than 120 days after filing the petition. For cause shown, the court may extend the time of any installment, provided the last installment is paid not later than 180 days after filing the petition.<br>(3) *Postponement of Attorney's Fees.* All installments of the filing fee must be paid in full before the debtor orchapter 13 trustee may make further payments to an attorney or any other | **(b) Paying by Installment.**<br>(1) ***Application to Pay by Installment.*** The clerk must accept for filing an individual's voluntary petition, regardless of whether any part of the filing fee is paid, if it is accompanied by a completed and signed application to pay in installments (Form 103A).<br>(2) ***Court Decision on Installments.*** Before the meeting of creditors, the court may order payment of the entire filing fee or may order the debtor to pay it in installments, designating the number of installments (not to exceed 4), the amount of each one, and payment dates. ~~The number of payments must not exceed 4, and a~~All payments must be made within 120 days after the petition is filed. The court may, for cause, extend the time to pay an installment, but the last one must be paid within 180 days after the petition is filed.<br>(3) ***Postponing Other Payments.*** Until the filing fee has been paid in full, the debtor or Chapter 13 trustee must not make any further payment to an attorney or any other person who provides services to the debtor in connection with the case. |

| ORIGINAL | REVISION |
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| person who renders services to the debtor in connection with the case. | |
| (c) WAIVER OF FILING FEE. A voluntary chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor's application requesting a waiver under 28 U.S.C. § 1930(f), prepared as prescribed by the appropriate Official Form. | **(c) Waiving the Filing Fee.** The clerk must accept for filing an individual's voluntary Chapter 7 petition if it is accompanied by a completed and signed application to waive the filing fee (Form 103B). |

**Committee Note**

The language of Rule 1006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits** | **Rule 1007. Lists, Schedules, Statements, and Other Documents; Time to File** |
| (a) CORPORATE OWNERSHIP STATEMENT, LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND OTHER LISTS.<br><br>(1) *Voluntary Case.* In a voluntary case, the debtor shall file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H as prescribed by the Official Forms. If the debtor is a corporation, other than a governmental unit, the debtor shall file with the petition a corporate ownership statement containing the information described in Rule 7007.1. The debtor shall file a supplemental statement promptly upon any change in circumstances that renders the corporate ownership statement inaccurate.<br><br>(2) *Involuntary Case.* In an involuntary case, the debtor shall file, within seven days after entry of the order for relief, a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H as prescribed by the Official Forms.<br><br>(3) *Equity Security Holders.* In a chapter 11 reorganization case, unless the court orders otherwise, the debtor shall file within 14 days after entry of the order for relief a list of the debtor's equity security holders of each class showing the number and kind of interests registered in the name of each | **(a) Lists of Names and Addresses.**<br><br>(1) ***Voluntary Case.*** In a voluntary case, the debtor must file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official ~~Bankruptcy~~ Forms. Unless it is a governmental unit, a corporate debtor must:<br><br>(A) include a corporate-ownership statement containing the information described in Rule 7007.1; and<br><br>(B) promptly file a supplemental statement if changed circumstances make the original statement inaccurate.<br><br>(2) ***Involuntary Case.*** Within 7 days after the order for relief has been entered in an involuntary case, the debtor must file a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official ~~Bankruptcy~~ Forms.<br><br>(3) ***Chapter 11—List of Equity Security Holders.*** Unless the court orders otherwise, a Chapter 11 debtor must, within 14 days after the order for relief is entered, file a list of the debtor's equity security holders by class. The list must show the number and type of interests registered in each holder's name, along with the holder's last known address or place of business. |

| ORIGINAL | REVISION |
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| holder, and the last known address or place of business of each holder.<br><br>(4) *Chapter 15 Case.* In addition to the documents required under § 1515 of the Code, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition: (A) a corporate ownership statement containing the information described in Rule 7007.1; and (B) unless the court orders otherwise, a list containing the names and addresses of all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code.<br><br>(5) *Extension of Time.* Any extension of time for the filing of the lists required by this subdivision may be granted only on motion for cause shown and on notice to the United States trustee and to any trustee, committee elected under § 705 or appointed under § 1102 of the Code, or other party as the court may direct. | (4) ***Chapter 15—Information Required from a Foreign Representative.*** If a foreign representative files a petition under Chapter 15 for recognition of a foreign proceeding, the representative must—in addition to the documents required by § 1515—include with the petition:<br><br>(A) a corporate-ownership statement containing the information described in Rule 7007.1; and<br><br>(B) unless the court orders otherwise, a list containing the names and addresses of:<br><br>(i) all persons or bodies authorized to administer the debtor's foreign proceedings;<br><br>(ii) all entities against whom provisional relief is sought under § 1519; and<br><br>(iii) all parties to litigation pending in the United States in which the debtor was a party when the petition was filed.<br><br>(5) ***Extending the Time to File.*** On motion and for cause, the court may extend the time to file any list required by this Rule 1007(a). Notice of the motion must be given to:<br><br>• the United States trustee;<br><br>• any trustee;<br><br>• any committee elected under § 705 or appointed under § 1102; and<br><br>• any other party as the court orders. |

| ORIGINAL | REVISION |
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| (b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS REQUIRED.<br><br>(1) Except in a chapter 9 municipality case, the debtor, unless the court orders otherwise, shall file the following schedules, statements, and other documents, prepared as prescribed by the appropriate Official Forms, if any:<br><br>(A) schedules of assets and liabilities;<br><br>(B) a schedule of current income and expenditures;<br><br>(C) a schedule of executory contracts and unexpired leases;<br><br>(D) a statement of financial affairs;<br><br>(E) copies of all payment advices or other evidence of payment, if any, received by the debtor from an employer within 60 days before the filing of the petition, with redaction of all but the last four digits of the debtor's social-security number or individual taxpayer-identification number; and<br><br>(F) a record of any interest that the debtor has in an account or program of the type specified in § 521(c) of the Code.<br><br>(2) An individual debtor in a chapter 7 case shall file a statement of intention as required by § 521(a) of the Code, prepared as prescribed by the appropriate Official Form. A copy of the statement of intention shall be | **(b) Schedules, Statements, and Other Documents.**<br><br>(1) ***In General.*** Except in a Chapter 9 case or when the court orders otherwise, the debtor must file—prepared as prescribed by the appropriate Official Form, if any—<br><br>(A) ~~a~~ schedules of assets and liabilities;<br><br>(B) a schedule of current income and expenditures;<br><br>(C) a schedule of executory contracts and unexpired leases;<br><br>(D) a statement of financial affairs;<br><br>(E) copies of all payment advices or other evidence of payment that the debtor received from any employer within 60 days before the petition was filed—with all but the last 4 digits of the debtor's social-security number or individual taxpayer-identification number deleted; and<br><br>(F) a record of the debtor's interest, if any, in an account or program of the type specified in § 521(c).<br><br>(2) ***Statement of Intention.*** In a Chapter 7 case, an individual debtor must:<br><br>(A) file the statement of intention required by § 521(a) (Form 108); and<br><br>(B) before or upon filing, serve a copy on the trustee and the creditors named in the statement.<br><br>(3) ***Credit-Counseling Statement.*** Unless the United States trustee has determined that the requirement to file a credit-counseling statement under § 109(h) does not apply in the district, an individual debtor must file a statement of compliance (included in Form 101). The debtor must include |

| ORIGINAL | REVISION |
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| served on the trustee and the creditors named in the statement on or before the filing of the statement.<br><br>(3) Unless the United States trustee has determined that the credit counseling requirement of § 109(h) does not apply in the district, an individual debtor must file a statement of compliance with the credit counseling requirement, prepared as prescribed by the appropriate Official Form which must include one of the following:<br><br>(A) an attached certificate and debt repayment plan, if any, required by § 521(b);<br><br>(B) a statement that the debtor has received the credit counseling briefing required by § 109(h)(1) but does not have the certificate required by § 521(b);<br><br>(C) a certification under § 109(h)(3); or<br><br>(D) a request for a determination by the court under § 109(h)(4).<br><br>(4) Unless § 707(b)(2)(D) applies, an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.<br><br>(5) An individual debtor in a chapter 11 case (unless under subchapter V) shall file a statement of current monthly income, prepared as | one of the following:<br><br>(A) a certificate and any debt-repayment plan required by § 521(b);<br><br>(B) a statement that the debtor has received the credit-counseling briefing required by § 109(h)(1), but does not have a § 521(b) certificate;<br><br>(C) a certification under § 109(h)(3); or<br><br>(D) a request for a court determination under § 109(h)(4).<br><br>(4) ***Current Monthly Income—Chapter 7.*** Unless § 707(b)(2)(D) applies, an individual debtor in a Chapter 7 case must:<br><br>(A) file a statement of current monthly income (Form 122A-1); and<br><br>(B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 7 means-test calculation (Form 122A-2).<br><br>(5) ***Current Monthly Income—Chapter 11.*** An individual debtor in a Chapter 11 case (unless under ~~subchapter~~ Subchapter V) must file a statement of current monthly income (Form 122B).<br><br>(6) ***Current Monthly Income—Chapter 13.*** A debtor in a Chapter 13 case must:<br><br>(A) file a statement of current monthly income (Form 122C-1); and<br><br>(B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 13 calculation of disposable income (Form 122C-2). |

| ORIGINAL | REVISION |
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| prescribed by the appropriate Official Form.<br><br>(6) A debtor in a chapter 13 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, a calculation of disposable income made in accordance with § 1325(b)(3), prepared as prescribed by the appropriate Official Form.<br><br>(7) Unless an approved provider of an instructional course concerning personal financial management has notified the court that a debtor has completed the course after filing the petition:<br><br>(A) An individual debtor in a chapter 7 or chapter 13 case shall file a statement of completion of the course, prepared as prescribed by the appropriate Official Form; and<br><br>(B) An individual debtor in a chapter 11 case shall file the statement if § 1141(d)(3) applies.<br><br>(8) If an individual debtor in a chapter 11, 12, or 13 case has claimed an exemption under § 522(b)(3)(A) in property of the kind described in § 522(p)(1) with a value in excess of the amount set out in § 522(q)(1), the debtor shall file a statement as to whether there is any proceeding pending in which the debtor may be found guilty of a felony of a kind described in § 522(q)(1)(A) or found liable for a debt of the kind described in § 522(q)(1)(B). | (7) ***Personal Financial-Management Course.*** Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which § 1141(d)(3) applies—must file a statement that such a course has been completed (Form 423).<br><br>(8) ***Limitation on a Homestead Exemption.*** This Rule 1007(b)(8) applies if an individual debtor in a Chapter 11, 12, or 13 case claims an exemption under § 522(b)(3)(A) in property of the type described in § 522(p)(1) and the property value exceeds the amount specified in § 522(q)(1). The debtor must file a statement about any pending proceeding in which the debtor may be found:<br><br>(A) guilty of the type of felony described in § 522(q)(1)(A); or<br><br>(B) liable for the type of debt described in § 522(q)(1)(B). |

| ORIGINAL | REVISION |
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| (c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days after the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), | **(c) Time to File.**<br>(1) ***Voluntary Case—Various Documents.*** Unless (d), (e), (f), or (h) provides otherwise, the debtor in a voluntary case must file the documents required by (b)(1), (b)(4), (b)(5), and (b)(6) with the petition or within 14 days after it is filed.<br>(2) ***Involuntary Case—Various Documents.*** In an involuntary case, the debtor must file the documents required by (b)(1) within 14 days after the order for relief is entered.<br>(3) ***Credit-Counseling Documents.*** In a voluntary case, the documents required by (b)(3)(A), (C), or (D) must be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under (b)(3)(B) must file the documents required by (b)(3)(A) within 14 days after the order for relief is entered.<br>(4) ***Financial-Management Course.*** Unless the court extends the time to file, an individual debtor must file the statement required by (b)(7) as follows:<br>(A) in a Chapter 7 case, within 60 days after the first date set for the meeting of creditors under § 341; and<br>(B) in a Chapter 11 or Chapter 13 case, ~~before~~ no later than the date the last payment is made under the plan~~,~~ or ~~before~~the date a motion for a discharge is filed under § 1141(d)(5)(B) or § 1328(b). |

| ORIGINAL | REVISION |
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| 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct. | (5) ***Limitation on Homestead Exemption.*** The debtor must file the statement required by (b)(8) no earlier than the date of the last payment made under the plan, or the date a motion for a discharge is filed under § 1141(d)(5)(B), 1228(b), or 1328(b).<br><br>(6) ***Documents in a Converted Case.*** Unless the court orders otherwise, a document filed before a case is converted to another chapter is considered filed in the converted case.<br><br>(7) ***Extending the Time to File.*** Except as § 1116(3) provides otherwise, the court, on motion and for cause, may extend the time to file a document under this rule. The movant must give notice of the motion to:<br><br>• the United States trustee;<br><br>• any committee elected under § 705 or appointed under § 1102; and<br><br>• any trustee, examiner, and other party as the court ~~directs~~orders.<br><br>If the motion is granted, notice must be given to the United States trustee and to any committee, trustee, and other party as the court orders. |

| ORIGINAL | REVISION |
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| (d) LIST OF 20 LARGEST CREDITORS IN CHAPTER 9 MUNICIPALITY CASE OR CHAPTER 11 REORGANIZATION CASE. In addition to the list required by subdivision (a) of this rule, a debtor in a chapter 9 municipality case or a debtor in a voluntary chapter 11 reorganization case shall file with the petition a list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders, as prescribed by the appropriate Official Form. In an involuntary chapter 11 reorganization case, such list shall be filed by the debtor within 2 days after entry of the order for relief under § 303(h) of the Code. | **(d) List of the 20 Largest Unsecured Creditors in a Chapter 9 or Chapter 11 Case.** In addition to the lists required by (a), a debtor in a Chapter 9 case or in a voluntary Chapter 11 case must file with the petition a list containing the names, addresses, and claims of the creditors that hold the 20 largest unsecured claims, excluding insiders, as prescribed by the appropriate Official Form (Form 104 or 204). In an involuntary Chapter 11 case, the debtor must file the list within 2 days after the order for relief is entered under § 303(h). |
| (e) LIST IN CHAPTER 9 MUNICIPALITY CASES. The list required by subdivision (a) of this rule shall be filed by the debtor in a chapter 9 municipality case within such time as the court shall fix. If a proposed plan requires a revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the debtor shall also file a list showing the name and address of each known holder of title, legal or equitable, to real property adversely affected. On motion for cause shown, the court may modify the requirements of this subdivision and subdivision (a) of this rule. | **(e) Chapter 9 Lists.** In a Chapter 9 case, the court must set the time for the debtor to file ~~a~~ the list required by (a). If a proposed plan requires ~~the~~ real estate assessments ~~on real estate~~ to be revised so that the proportion of special assessments or special taxes for some property will be different from the proportion in effect when the petition is filed, the debtor must also file a list that shows—for each adversely affected property—the name and address of each known holder of title, both legal and equitable. On motion and for cause, the court may modify the requirements of this Rule 1007(e) and those of (a). |

| ORIGINAL | REVISION |
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| (f) STATEMENT OF SOCIAL SECURITY NUMBER. An individual debtor shall submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an involuntary case, the debtor shall submit the statement within 14 days after the entry of the order for relief. | **(f) Social-Security Number.** In a voluntary case, an individual debtor must submit with the petition a verified statement that gives the debtor's social-security number or states that the debtor does not have one (Form 121). In an involuntary case, the debtor must submit the statement within 14 days after the order for relief is entered. |
| (g) PARTNERSHIP AND PARTNERS. The general partners of a debtor partnership shall prepare and file the list required under subdivision (a), schedules of the assets and liabilities, schedule of current income and expenditures, schedule of executory contracts and unexpired leases, and statement of financial affairs of the partnership. The court may order any general partner to file a statement of personal assets and liabilities within such time as the court may fix. | **(g) Partnership Case.** The general partners of a debtor partnership must file for the partnership the list required by (a) and the documents required by (b)(1)(A)–(D). The court may order any general partner to file a statement of personal assets and liabilities and may set the deadline for doing so. |
| (h) INTERESTS ACQUIRED OR ARISING AFTER PETITION. If, as provided by § 541(a)(5) of the Code, the debtor acquires or becomes entitled to acquire any interest in property, the debtor shall within 14 days after the information comes to the debtor's knowledge or within such further time the court may allow, file a supplemental schedule in the chapter 7 liquidation case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual debt adjustment case. If any of the property required to be reported under this subdivision is claimed by the debtor as exempt, the debtor shall claim the exemptions in the supplemental schedule. This duty to file a supplemental schedule continues even | **(h) Interests in Property Acquired or Arising After a Petition Is Filed.** After the petition is filed~~,~~ in a Chapter 7, 11, 12, or 13 case, if the debtor acquires—or becomes entitled to acquire—an interest in property described in § 541(a)(5), the debtor must file a supplemental schedule and include any claimed exemption. Unless the court allows additional time, the debtor must file the schedule within 14 days after learning about the property interest. This duty continues even after the case is closed but does not apply to property acquired after an order is entered:<br>(1) confirming a Chapter 11 plan (other than one confirmed under § 1191(b)); or<br>(2) discharging the debtor in a Chapter 12 case, a Chapter 13 case, or a case |

| ORIGINAL | REVISION |
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| after the case is closed, except for property acquired after an order is entered:<br><br>(1) confirming a chapter 11 plan (other than one confirmed under § 1191(b)); or<br><br>(2) discharging the debtor in a chapter 12 case, a chapter 13 case, or a case under subchapter V of chapter 11 in which the plan is confirmed under § 1191(b). | under Subchapter V of Chapter 11 in which the plan is confirmed under § 1191(b).~~the case is closed, except for property acquired after a plan is confirmed in a Chapter 11 case or a discharge is granted in a Chapter 12 or 13 case.~~ |
| (i) DISCLOSURE OF LIST OF SECURITY HOLDERS. After notice and hearing and for cause shown, the court may direct an entity other than the debtor or trustee to disclose any list of security holders of the debtor in its possession or under its control, indicating the name, address and security held by any of them. The entity possessing this list may be required either to produce the list or a true copy thereof, or permit inspection or copying, or otherwise disclose the information contained on the list. | **(i) Security Holders Known to Others.** After notice and a hearing and for cause, the court may direct an entity other than the debtor or trustee to:<br><br>(1) disclose any list of the debtor's security holders in its possession or under its control by:<br><br>(A) producing the list or a copy of it;<br><br>(B) allowing inspection or copying; or<br><br>(C) making any other disclosure; and<br><br>(2) indicate the name, address, and security held by each listed holder. |
| (j) IMPOUNDING OF LISTS. On motion of a party in interest and for cause shown the court may direct the impounding of the lists filed under this rule, and may refuse to permit inspection by any entity. The court may permit inspection or use of the lists, however, by any party in interest on terms prescribed by the court. | **(j) Impounding Lists.** On a party in interest's motion ~~of a party in interest~~ and for cause, the court may impound any list filed under this rule and may refuse inspection. But the court may permit a party in interest to inspect or use an impounded list on terms prescribed by the court. |

| ORIGINAL | REVISION |
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| (k) PREPARATION OF LIST, SCHEDULES, OR STATEMENTS ON DEFAULT OF DEBTOR. If a list, schedule, or statement, other than a statement of intention, is not prepared and filed as required by this rule, the court may order the trustee, a petitioning creditor, committee, or other party to prepare and file any of these papers within a time fixed by the court. The court may approve reimbursement of the cost incurred in complying with such an order as an administrative expense. | **(k) Debtor's Failure to File a Required Document.** If a debtor fails to properly prepare and file a list, schedule, or statement (other than a statement of intention) as required by this rule, the court may order:<br>(1) that the trustee, a petitioning creditor, a committee, or other party do so within the time set by the court; and<br>(2) that the cost incurred be reimbursed as an administrative expense. |
| (l) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of every list, schedule, and statement filed pursuant to subdivision (a)(1), (a)(2), (b), (d), or (h) of this rule. | **(l) Copies to the United States Trustee.** The clerk must promptly send to the United States trustee a copy of every list, schedule, or statement filed under (a)(1), (a)(2), (b), (d), or (h). |
| (m) INFANTS AND INCOMPETENT PERSONS. If the debtor knows that a person on the list of creditors or schedules is an infant or incompetent person, the debtor also shall include the name, address, and legal relationship of any person upon whom process would be served in an adversary proceeding against the infant or incompetent person in accordance with Rule 7004(b)(2). | **(m) Infant or Incompetent Person.** If a debtor knows that a person named in a list of creditors or in a schedule is an infant or is incompetent, the debtor must also include the name, address, and legal relationship of ~~any person~~ anyone on whom process would be served in an adversary proceeding against that person under Rule 7004(b)(2). |

**Committee Note**

The language of Rule 1007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1008. Verification of Petitions and Accompanying Papers** | **Rule 1008. Requirement to Verify Petitions and Accompanying Documents** |
| All petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746. | A petition, list, schedule, statement, and any amendment must be verified or must contain an unsworn declaration under 28 U.S.C. § 1746. |

**Committee Note**

The language of Rule 1008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1009. Amendments of Voluntary Petitions, Lists, Schedules and Statements** | **Rule 1009. Amending a Voluntary Petition, List, Schedule, or Statement** |
| (a) GENERAL RIGHT TO AMEND. A voluntary petition, list, schedule, or statement may be amended by the debtor as a matter of course at any time before the case is closed. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby. On motion of a party in interest, after notice and a hearing, the court may order any voluntary petition, list, schedule, or statement to be amended and the clerk shall give notice of the amendment to entities designated by the court. | **(a) In General.**<br>(1) ***By a Debtor.*** A debtor may amend a voluntary petition, list, schedule, or statement at any time before the case is closed. The debtor must give notice of the amendment to the trustee and any affected entity.<br>(2) ***By a Party in Interest.*** On a party in interest's motion ~~of a party in interest~~ and after notice and a hearing, the court may order a voluntary petition, list, schedule, or statement to be amended. The clerk must give notice of the amendment to entities that the court designates. |
| (b) STATEMENT OF INTENTION. The statement of intention may be amended by the debtor at any time before the expiration of the period provided in § 521(a) of the Code. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby. | **(b) Amending a Statement of Intention.** A debtor may amend a statement of intention at any time before the time provided in § 521(a)(2) expires. The debtor must give notice of the amendment to the trustee and any affected entity. |
| (c) STATEMENT OF SOCIAL SECURITY NUMBER. If a debtor becomes aware that the statement of social security number submitted under Rule 1007(f) is incorrect, the debtor shall promptly submit an amended verified statement setting forth the correct social security number. The debtor shall give notice of the amendment to all of the entities required to be included on the list filed under Rule 1007(a)(1) or (a)(2). | **(c) ~~Incorrect~~ Amending a Statement of Social-Security Number.** If a debtor learns that a social-security number shown on the statement submitted under Rule 1007(f) is incorrect, the debtor must:<br>(1) promptly submit an amended verified statement with the correct number (Form 121); and<br>(2) give notice of the amendment to all entities required to be listed under Rule 1007(a)(1) or (a)(2). |
| (d) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall promptly transmit to the United States trustee a copy of every amendment filed | **(d) Copy to the United States Trustee.** The clerk must promptly send a copy of every amendment filed under this rule to the United States trustee. |

| ORIGINAL | REVISION |
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| or submitted under subdivision (a), (b), or (c) of this rule. | |

**Committee Note**

The language of Rule 1009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1010. Service of Involuntary Petition and Summons** | **Rule 1010. Serving an Involuntary Petition and Summons** |
| (a) SERVICE OF INVOLUNTARY PETITION AND SUMMONS. On the filing of an involuntary petition, the clerk shall forthwith issue a summons for service. When an involuntary petition is filed, service shall be made on the debtor. 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. | **(a) In General.** After an involuntary petition has been filed, the clerk must promptly issue a summons for service on the debtor. The summons must be served with a copy of the petition in the manner that Rule 7004(a) and (b) provide for service of a summons and complaint. If service cannot be so made, the court may order service by mail to the debtor's last known address, and by at least one publication as the court orders. Service may be made anywhere. Rule 7004(e) and Fed. R. Civ. P. 4(l) govern service under this rule. |
| (b) CORPORATE OWNERSHIP STATEMENT. Each petitioner that is a corporation shall file with the involuntary petition a corporate ownership statement containing the information described in Rule 7007.1. | **(b) Corporate-Ownership Statement.** A corporation that files an involuntary petition must file and serve with the petition a corporate-ownership statement containing the information described in Rule 7007.1. |

**Committee Note**

The language of Rule 1010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1011. Responsive Pleading or Motion in Involuntary Cases** | **Rule 1011. Responsive Pleading in an Involuntary Case; Effect of a Motion** |
| (a) WHO MAY CONTEST PETITION. The debtor named in an involuntary petition may contest the petition. In the case of a petition against a partnership under Rule 1004, a nonpetitioning general partner, or a person who is alleged to be a general partner but denies the allegation, may contest the petition. | **(a) Who May Contest a Petition.** A debtor may contest an involuntary petition filed against it. In a partnership case under Rule 1004, a nonpetitioning general partner—or a person who is alleged to be a general partner but denies the allegation—may contest the petition. |
| (b) DEFENSES AND OBJECTIONS; WHEN PRESENTED. Defenses and objections to the petition shall be presented in the manner prescribed by Rule 12 F.R.Civ.P. and shall be filed and served within 21 days after service of the summons, except that if service is made by publication on a party or partner not residing or found within the state in which the court sits, the court shall prescribe the time for filing and serving the response. | **(b) Defenses and Objections; Time to File.** A defense or objection to the petition must be presented as prescribed by Fed. R. Civ. P. 12. It must be filed and served within 21 days after the summons is served. But if service is made by publication on a party or partner who does not reside in—or cannot be found in—the state where the court sits, the court must set the time to file and serve the answer. |
| (c) EFFECT OF MOTION. Service of a motion under Rule 12(b) F.R.Civ.P. shall extend the time for filing and serving a responsive pleading as permitted by Rule 12(a) F.R.Civ.P. | **(c) Effect of a Motion.** Serving a motion under Fed. R. Civ. P. 12(b) extends the time to file and serve an answer as Fed. R. Civ. P. 12(a) permits. |
| (d) CLAIMS AGAINST PETITIONERS. A claim against a petitioning creditor may not be asserted in the answer except for the purpose of defeating the petition. | **(d) Limitation on Asserting a Debtor's Claim Against a Petitioning Creditor.** A debtor's answer must not assert a claim against a petitioning creditor except to defeat the petition. |
| (e) OTHER PLEADINGS. No other pleadings shall be permitted, except that the court may order a reply to an answer and prescribe the time for filing and service. | **(e) Limit on Pleadings.** No pleading other than an answer to the petition is allowed, but the court may order a reply to an answer and set the time for filing and service. |

| ORIGINAL | REVISION |
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| (f) CORPORATE OWNERSHIP STATEMENT. If the entity responding to the involuntary petition is a corporation, the entity shall file with its first appearance, pleading, motion, response, or other request addressed to the court a corporate ownership statement containing the information described in Rule 7007.1. | **(f) Corporate-Ownership Statement.** A corporation that responds to the petition must file a corporate-ownership statement containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, or response, or other first request to the court. |

**Committee Note**

The language of Rule 1011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1012. Responsive Pleading in Cross-Border Cases** | **Rule 1012. Contesting a Petition in a Chapter 15 Case** |
| (a) WHO MAY CONTEST PETITION. The debtor or any party in interest may contest a petition for recognition of a foreign proceeding. | **(a) Who May Contest the Petition.** A debtor or a party in interest may contest a Chapter 15 petition for recognition of a foreign proceeding. |
| (b) OBJECTIONS AND RESPONSES; WHEN PRESENTED. Objections and other responses to the petition shall be presented no later than seven days before the date set for the hearing on the petition, unless the court prescribes some other time or manner for responses. | **(b) Time to File a Response.** Unless the court sets a different time, a response to the petition must be filed at least 7 days before the date set for a hearing on the petition. |
| (c) CORPORATE OWNERSHIP STATEMENT. If the entity responding to the petition is a corporation, then the entity shall file a corporate ownership statement containing the information described in Rule 7007.1 with its first appearance, pleading, motion, response, or other request addressed to the court. | **(c) Corporate-Ownership Statement.** A corporation that responds to the petition must file a corporate-ownership statement containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, or response, or other first request to the court. |

**Committee Note**

The language of Rule 1012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1013. Hearing and Disposition of a Petition in an Involuntary Case** | **Rule 1013. Contested Petition in an Involuntary Case; Default** |
| (a) CONTESTED PETITION. The court shall determine the issues of a contested petition at the earliest practicable time and forthwith enter an order for relief, dismiss the petition, or enter any other appropriate order. | **(a) Hearing and Disposition.** When a petition in an involuntary case is contested, the court must:<br>(1) rule on the issues presented at the earliest practicable time; and<br>(2) promptly issue an order for relief, dismiss the petition, or issue any other appropriate order. |
| (b) DEFAULT. If no pleading or other defense to a petition is filed within the time provided by Rule 1011, the court, on the next day, or as soon thereafter as practicable, shall enter an order for the relief requested in the petition. | **(b) Default.** If the petition is not contested within the time allowed by Rule 1011, the court must issue the order for relief on the next day or as soon as practicable. |
| [(c) ORDER FOR RELIEF] | |

**Committee Note**

The language of Rule 1013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1014. Dismissal and Change of Venue** | **Rule 1014. Transferring a Case to Another District; Dismissing a Case Improperly Filed** |
| (a) DISMISSAL AND TRANSFER OF CASES.<br><br>(1) *Cases Filed in Proper District.* If a petition is filed in the proper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may transfer the case to any other district if the court determines that the transfer is in the interest of justice or for the convenience of the parties.<br><br>(2) *Cases Filed in Improper District.* If a petition is filed in an improper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may dismiss the case or transfer it to any other district if the court determines that transfer is in the interest of justice or for the convenience of the parties. | **(a) Dismissal or Transfer.**<br><br>(1) ***Petition~~s~~ Filed in the Proper District.*** If a petition is filed in the proper district, the court may transfer the case to another district in the interest of justice or for the ~~parties'~~ convenience of the parties. The court may do so:<br><br>(A) on its own or on ~~timely~~ a party in interest's timely motion ~~of a party in interest~~; and<br><br>(B) only after a hearing on notice to the petitioner, United States trustee, and other entities as the court orders.<br><br>(2) ***Petition~~s~~ Filed in an Improper District.*** If a petition is filed in an improper district, the court may dismiss the case or may transfer it to another district on the same grounds and under the same procedures as stated in (1). |
| (b) PROCEDURE WHEN PETITIONS INVOLVING THE SAME DEBTOR OR RELATED DEBTORS ARE FILED IN DIFFERENT COURTS. If petitions commencing cases under the Code or seeking recognition under chapter 15 are filed in different districts by, regarding, or against (1) the same debtor, (2) a partnership and one or more of its general partners, (3) two or more general partners, or (4) a debtor and an affiliate, the court in the district in which the first-filed petition is pending may determine, in the interest of justice or | **(b) Petitions Involving the Same or Related Debtors Filed in Different Districts.**<br><br>(1) ***Scope.*** This Rule 1014(b) applies if petitions commencing cases or seeking recognition under Chapter 15 are filed in different districts by, regarding, or against:<br><br>(A) the same debtor;<br><br>(B) a partnership and one or more of its general partners;<br><br>(C) two or more general partners; or<br><br>(D) a debtor and an affiliate. |

| ORIGINAL | REVISION |
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| for the convenience of the parties, the district or districts in which any of the cases should proceed. The court may so determine on motion and after a hearing, with notice to the following entities in the affected cases: the United States trustee, entities entitled to notice under Rule 2002(a), and other entities as the court directs. The court may order the parties to the later-filed cases not to proceed further until it makes the determination. | (2) ***Court Action.*** The court in the district where the first petition is filed may determine the district or districts in which the cases should proceed in the interest of justice or for the ~~parties'~~ convenience of the parties. The court may do so on timely motion and after a hearing on notice to:<br>• the United States trustee;<br>• entities entitled to notice under Rule 2002(a); and<br>• other entities as the court orders.<br>(3) ***Later-Filed Petitions.*** The court in the district where the first petition is filed may order the parties to the later-filed cases not to proceed further until the motion is decided. |

**Committee Note**

The language of Rule 1014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1015. Consolidation or Joint Administration of Cases Pending in Same Court** | **Rule 1015. Consolidating or Jointly Administering Cases Pending in the Same District** |
| (a) CASES INVOLVING SAME DEBTOR. If two or more petitions by, regarding, or against the same debtor are pending in the same court, the court may order consolidation of the cases. | **(a) Consolidating Cases Involving the Same Debtor.** The court may consolidate two or more cases that are regarding or brought by or against the same debtor and that are pending in its district. |
| (b) CASES INVOLVING TWO OR MORE RELATED DEBTORS. If a joint petition or two or more petitions are pending in the same court by or against (1) spouses, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a debtor and an affiliate, the court may order a joint administration of the estates. Prior to entering an order the court shall give consideration to protecting creditors of different estates against potential conflicts of interest. An order directing joint administration of individual cases of spouses shall, if one spouse has elected the exemptions under § 522(b)(2) of the Code and the otherhas elected the exemptions under § 522(b)(3), fix a reasonable time within which either may amend the election so that both shall have elected the same exemptions. The order shall notify the debtors that unless they elect the same exemptions within the time fixed by the court, they will be deemed to have elected the exemptions provided by § 522(b)(2). | **(b) Jointly Administering Cases Involving Related Debtors; Exemptions of Spouses; Protective Orders to Avoid Conflicts of Interest.**<br>(1) ***In General.*** The court may order joint administration of the estates in a joint case or in two or more cases pending in the court if they are brought by or against:<br>(A) spouses;<br>(B) a partnership and one or more of its general partners;<br>(C) two or more general partners; or<br>(D) a debtor and an affiliate.<br>(2) ***Potential Conflicts of Interest.*** Before issuing a joint-administration order, the court must consider how to protect the creditors of different estates against potential conflicts of interest.<br>(3) ***Exemptions in Cases Involving Spouses.*** If spouses have filed separate petitions—, with one electing exemptions under § 522(b)(2) and the other under § 522(b)(3)—, and the court orders joint administration, that order must:<br>(A) set a reasonable time for the debtors to elect the same exemptions; and |

| ORIGINAL | REVISION |
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| | (B) advise the debtors that if they fail to do so, they will be considered to have elected exemptions under § 522(b)(2). |
| (c) EXPEDITING AND PROTECTIVE ORDERS. When an order for consolidation or joint administration of a joint case or two or more cases is entered pursuant to this rule, while protecting the rights of the parties under the Code, the court may enter orders as may tend to avoid unnecessary costs and delay. | **(c) Protective Orders to Avoid Unnecessary Costs and Delay.** When cases are consolidated or jointly administered, the court may issue orders to avoid unnecessary costs and delay while still protecting the parties' rights under the Code. |

**Committee Note**

The language of Rule 1015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1016. Death or Incompetency of Debtor** | **Rule 1016. Death or Incompetency of a Debtor** |
| Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. | **(a) Chapter 7 Case.** In a Chapter 7 case, the debtor's death or incompetency does not abate the case. The case continues, as far as possible, as though the death or incompetency had not occurred.<br><br>**(b) Chapter 11, 12, or 13 Case.** Upon the debtor's death or incompetency in a Chapter 11, 12, or 13 case, the court may dismiss the case or may permit it to continue ~~it~~ if further administration is possible and is in the parties' best interests. If the ~~court chooses to~~case continues, ~~it must do so, as far as possible,~~it must proceed and be concluded in the same manner as though the death or incompetency had not occurred. |

**Committee Note**

The language of Rule 1016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1017. Dismissal or Conversion of Case; Suspension** | **Rule 1017. Dismissing a Case; Suspending Proceedings; Converting a Case to Another Chapter** |
| (a) VOLUNTARY DISMISSAL; DISMISSAL FOR WANT OF PROSECUTION OR OTHER CAUSE. Except as provided in §§ 707(a)(3), 707(b), 1208(b), and 1307(b) of the Code, and in Rule 1017(b), (c), and (e), a case shall not be dismissed on motion of the petitioner, for want of prosecution or other cause, or by consent of the parties, before a hearing on notice as provided in Rule 2002. For the purpose of the notice, the debtor shall file a list of creditors with their addresses within the time fixed by the court unless the list was previously filed. If the debtor fails to file the list, the court may order the debtor or another entity to prepare and file it. | **(a) Dismissing a Case—In General.** Except as provided in § 707(a)(3), 707(b), 1208(b), or 1307(b), or in Rule 1017(b), (c), or (e), the court must conduct a hearing on notice under Rule 2002 before dismissing a case on the petitioner's motion, ~~of the petitioner,~~ for want of prosecution or other cause, or by the parties' consent ~~of the parties~~. For the purpose of the notice, a debtor who has not already ~~done so must, before the court's deadline, file~~filed a list of creditors and their addresses must do so before the deadline set by the court. If the debtor fails to timely file the list, the court may order the debtor or another entity to do so. |
| (b) DISMISSAL FOR FAILURE TO PAY FILING FEE.<br><br>(1) If any installment of the filing fee has not been paid, the court may, after a hearing on notice to the debtor and the trustee, dismiss the case.<br><br>(2) If the case is dismissed or closed without full payment of the filing fee, the installments collected shall be distributed in the same manner and proportions as if the filing fee had been paid in full. | **(b) Dismissing a Case for Failure to Pay an Installment Toward the Filing Fee.** If the debtor fails to pay any installment toward the filing fee, the court may dismiss the case after a hearing on notice to the debtor and trustee. If the court dismisses or closes the case without full payment of the filing fee, previous installment payments must be distributed as if full payment had been made. |

| ORIGINAL | REVISION |
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| (c) DISMISSAL OF VOLUNTARY CHAPTER 7 OR CHAPTER 13 CASE FOR FAILURE TO TIMELY FILE LIST OF CREDITORS, SCHEDULES, AND STATEMENT OF FINANCIAL AFFAIRS. The court may dismiss a voluntary chapter 7 or chapter 13 case under § 707(a)(3) or § 1307(c)(9) after a hearing on notice served by the United States trustee on the debtor, the trustee, and any other entities as the court directs. | **(c) Dismissing a Voluntary Chapter 7 or Chapter 13 Case for Failure to File a Document on Time.** On motion of the United States trustee, the court may dismiss a voluntary Chapter 7 case under § 707(a)(3), or a Chapter 13 case under § 1307(c)(9), for a failure to timely file the information required by § 521(a)(1). But the court may do so only after a hearing on notice served by the United States trustee on the debtor, trustee, and any other entity as the court orders. |
| (d) SUSPENSION. The court shall not dismiss a case or suspend proceedings under § 305 before a hearing on notice as provided in Rule 2002(a). | **(d) Dismissing a Case or Suspending Proceedings Under § 305.** The court may dismiss a case or suspend proceedings under § 305 only after a hearing on notice under Rule 2002(a). |
| (e) DISMISSAL OF AN INDIVIDUAL DEBTOR'S CHAPTER 7 CASE, OR CONVERSION TO A CASE UNDER CHAPTER 11 OR 13, FOR ABUSE. The court may dismiss or, with the debtor's consent, convert an individual debtor's case for abuse under § 707(b) only on motion and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entity as the court directs.<br><br>(1) Except as otherwise provided in § 704(b)(2), a motion to dismiss a case for abuse under § 707(b) or (c) may be filed only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed before the time has expired, the court for cause extends the time for filing the motion to dismiss. The party filing the motion shall set forth in the motion all matters to be considered at the hearing. In addition, a motion to dismiss under § 707(b)(1) and (3) shall state with particularity the circumstances alleged to constitute abuse. | **(e) Dismissing an Individual Debtor's Chapter 7 Case for Abuse~~;~~ or Converting~~the Case~~ It to Chapter 11 or 13.**<br><br>(1) ***In General.*** On motion under § 707(b), the court may dismiss an individual debtor's Chapter 7 case for abuse or, with the debtor's consent, convert it to Chapter 11 or 13. The court may do so only after a hearing on notice to:<br><br>• the debtor~~,~~;<br>• the trustee~~,~~;<br>• the United States trustee~~,~~; and<br>• any other entity as the court orders.<br><br>(2) ***Time to File a Motion; Content.*** Except as § 704(b)(2) provides otherwise, a motion to dismiss a case for abuse under § 707(b) or (c) must be filed within 60 days after the first date set for the meeting of creditors under § 341(a). On request made within the 60-day period, the court may, for |

| ORIGINAL | REVISION |
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| (2) If the hearing is set on the court's own motion, notice of the hearing shall be served on the debtor no later than 60 days after the first date set for the meeting of creditors under § 341(a). The notice shall set forth all matters to be considered by the court at the hearing. | cause, extend the time to file. The motion must:<br>(A) set forth all matters to be considered at the hearing; and<br>(B) if made under § 707(b)(1) and (3), state with particularity the circumstances alleged to constitute abuse.<br>(3) ***Hearing on the Court's Own Motion; Serving Notice.*** If the hearing is set on the court's own motion, the clerk must serve notice on the debtor within 60 days after the first date set for the meeting of creditors under § 341(a). The notice must set forth all matters to be considered at the hearing. |
| (f) PROCEDURE FOR DISMISSAL, CONVERSION, OR SUSPENSION.<br>(1) Rule 9014 governs a proceeding to dismiss or suspend a case, or to convert a case to another chapter, except under §§ 706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b).<br>(2) Conversion or dismissal under §§ 706(a), 1112(a), 1208(b), or 1307(b) shall be on motion filed and served as required by Rule 9013.<br>(3) A chapter 12 or chapter 13 case shall be converted without court order when the debtor files a notice of conversion under §§ 1208(a) or 1307(a). The filing date of the notice becomes the date of the conversion order for the purposes of applying § 348(c) and Rule 1019. The clerk shall promptly transmit a copy of the notice to the United States trustee. | **(f) Procedures for Dismissing, Suspending, or Converting a Case.**<br>(1) ***In General.*** Rule 9014 governs a proceeding to dismiss or suspend a case or to convert it to another chapter—except under § 706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b).<br>(2) ***Cases Requiring a Motion.*** Dismissing or converting a case under § 706(a), 1112(a), 1208(b), or 1307(b) requires a motion filed and served as required by Rule 9013.<br>(3) ***Conversion ~~Date~~ in a Chapter 12 or 13 Case.*** If the debtor files a conversion notice under § 1208(a) or § 1307(a), the case will be converted without court order.~~, and t~~The ~~filing date of the~~ notice date becomes the date of the conversion ~~date~~ order in applying § 348(c) or Rule 1019. The clerk must promptly send a copy of the notice to the United States trustee. |

**Committee Note**

The language of Rule 1017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1018. Contested Involuntary Petitions; Contested Petitions Commencing Chapter 15 Cases; Proceedings to Vacate Order for Relief; Applicability of Rules in Part VII Governing Adversary Proceedings** | **Rule 1018. Contesting a Petition in an Involuntary or Chapter 15 Case; Vacating an Order for Relief; Applying Part VII Rules** |
| Unless the court otherwise directs and except as otherwise prescribed in Part I of these rules, the following rules in Part VII apply to all proceedings contesting an involuntary petition or a chapter 15 petition for recognition, and to all proceedings to vacate an order for relief: Rules 7005, 7008–7010, 7015, 7016, 7024–7026, 7028–7037, 7052, 7054, 7056, and 7062. The court may direct that other rules in Part VII shall also apply. For the purposes of this rule a reference in the Part VII rules to adversary proceedings shall be read as a reference to proceedings contesting an involuntary petition or a chapter 15 petition for recognition, or proceedings to vacate an order for relief. Reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition. | **(a) Applying Part VII Rules.** Unless the court orders or a Part I rule provides otherwise, Rules 7005, 7008–10, 7015–16, 7024–26, 7028–37, 7052, 7054, 7056, and 7062—together with any other Part VII rules as the court may ~~direct~~order—apply to the following:<br>(1) a proceeding that ~~contesting~~ contests either an involuntary petition or a Chapter 15 petition for recognition; and<br>(2) a proceeding to vacate an order for relief.<br>**(b) References to an "Adversary Proceeding~~s~~."** Any reference to an "adversary proceeding~~s~~" in the rules listed in (a) is a reference to the proceedings listed in (a)(1)–(2).<br>**(c) "Complaint" Means "Petition."** For the proceedings described in (a), a reference to the "complaint" in the Federal Rules of Civil Procedure must be read as a reference to the petition. |

**Committee Note**

The language of Rule 1018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case** | **Rule 1019. Converting or Reconverting a Chapter 11, 12, or 13 Case to Chapter 7** |
| When a chapter 11, chapter 12, or chapter 13 case has been converted or reconverted to a chapter 7 case:<br><br>(1) *Filing of Lists, Inventories, Schedules, Statements.*<br><br>(A) Lists, inventories, schedules, and statements of financial affairs theretofore filed shall be deemed to be filed in the chapter 7 case, unless the court directs otherwise. If they have not been previously filed, the debtor shall comply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the date of the entry of the order directing that the case continue under chapter 7.<br><br>(B) If a statement of intention is required, it shall be filed within 30 days after entry of the order of conversion or before the first date set for the meeting of creditors, whichever is earlier. The court may grant an extension of time for cause only on written motion filed, or oral request made during a hearing, before the time has expired. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct. | **(a) Filing Various ~~Papers~~Documents~~ Previously Filed~~; ~~New Filing Dates;~~Filing a Statement of Intention.**<br><br>(1) ***~~Papers Previously Filed~~Lists, Inventories, Schedules, Statements of Financial Affairs.*** Unless the court orders otherwise, when a Chapter 11, 12, or 13 case is converted or reconverted to Chapter 7, the lists, inventories, schedules, and statements of financial affairs previously filed are considered filed in the Chapter 7 case. If they have not been previously filed, the debtor must comply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the same date as the order directing that the case continue under Chapter 7.<br><br>(2) ***Statement of Intention.*** A statement of intention, if required, must be filed within 30 days after the conversion order is entered or before the first date set for the meeting of creditors, whichever is earlier. The court may, for cause, extend the time to file only on motion filed—or on oral request made during a hearing—before the time has expired. Notice of an extension must be given to the United States trustee and to any committee, trustee, or other party as the court orders. |

| ORIGINAL | REVISION |
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| (2) *New Filing Periods.*<br><br>(A) A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002, 4004, or 4007, but a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.<br><br>(B) A new time period for filing an objection to a claim of exemptions shall commence under Rule 4003(b) after conversion of a case to chapter 7 unless:<br><br>(i) the case was converted to chapter 7 more than one year after the entry of the first order confirming a plan under chapter 11, 12, or 13; or<br><br>(ii) the case was previously pending in chapter 7 and the time to object to a claimed exemption had expired in the original chapter 7 case. | **(b) New ~~Period~~ Time to File a § 707(b) or (c) Motion, a Proof of Claim, a~~n~~ ~~Objection to a~~Complaint Objecting to Discharge, or a Complaint to Determine Dischargeability.**<br><br>(1) ***When a New ~~Period~~ Time Begins.*** When a case is converted to Chapter 7, a new ~~period~~ time begins under Rule 1017, 3002, 4004, or 4007 to file:<br><br>(A) a motion under § 707(b) or (c);<br><br>(B) a proof of claim;<br><br>(C) a complaint objecting to ~~a~~ discharge; or<br><br>(D) a complaint to determine whether a specific debt may be discharged.<br><br>(2) ***When a New ~~Period~~ Time Does Not Begin.*** No new ~~period~~ time to file begins when a case is reconverted to Chapter 7 after a previous conversion to Chapter 11, 12, or 13 if the time to file in the original Chapter 7 case has expired.<br><br>(3) ***New ~~Period~~ Time to Object to a Claimed Exemption.*** When a case is converted to Chapter 7, a new ~~period~~ time begins under Rule 4003(b) to object to a claimed exemption unless:<br><br>(A) more than 1 year has elapsed since the court issued the first order confirming a plan under Chapter 11, 12, or 13~~,~~; or<br><br>(B) the case was previously pending in Chapter 7 and time has expired to object to a claimed exemption in the original Chapter 7 case. |

| ORIGINAL | REVISION |
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| (3) *Claims Filed Before Conversion.* All claims actually filed by a creditor before conversion of the case are deemed filed in the chapter 7 case. | **(c) Proof of Claim Filed Before Conversion.** A proof of claim filed by a creditor before conversion is considered filed in the Chapter 7 case. |
| (4) *Turnover of Records and Property.* After qualification of, or assumption of duties by the chapter 7 trustee, any debtor in possession or trustee previously acting in the chapter 11, 12, or 13 case shall, forthwith, unless otherwise ordered, turn over to the chapter 7 trustee all records and property of the estate in the possession or control of the debtor in possession or trustee. | **(d) Turning Over ~~Records~~ Documents and Property.** Unless the court orders otherwise, after a trustee in the Chapter 7 case qualifies or assumes duties, the debtor in possession—or the previously acting trustee ~~in the Chapter 11, 12, or 13 case~~—must promptly turn over to the Chapter 7 trustee all ~~Records~~ documents and property of the estate that are in its possession or control. |
| (5) *Filing Final Report and Schedule of Postpetition Debts.*<br><br>(A) Conversion of Chapter 11 or Chapter 12 Case. Unless the court directs otherwise, if a chapter 11 or chapter 12 case is converted to chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion, shall:<br><br>(i) not later than 14 days after conversion of the case, file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and<br><br>(ii) not later than 30 days after conversion of the case, file and transmit to the United States trustee a final report and account;<br><br>(B) Conversion of Chapter 13 Case. Unless the court directs otherwise, if a chapter 13 case is converted to chapter 7,<br><br>(i) the debtor, not later than 14 days after conversion of the | **(e) Final Report and Account; Schedule of Unpaid Postpetition Debts.**<br><br>(1) ***In a Chapter 11 or Chapter 12 Case.*** Unless the court orders otherwise, when a Chapter 11 or 12 case is converted to Chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion must:<br><br>(A) within 14 days after conversion, file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name and address of each claim holder; and<br><br>(B) within 30 days after conversion, file and send to the United States trustee a final report and account.<br><br>(2) ***In a Chapter 13 Case.*** Unless the court orders otherwise, when a Chapter 13 case is converted to Chapter 7:<br><br>(A) within 14 days after conversion, the debtor must file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name |

| ORIGINAL | REVISION |
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| case, shall file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and<br><br>(ii) the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account;<br><br>(C) Conversion After Confirmation of a Plan. Unless the court orders otherwise, if a chapter 11, chapter 12, or chapter 13 case is converted to chapter 7 after confirmation of a plan, the debtor shall file:<br><br>(i) a schedule of property not listed in the final report and account acquired after the filing of the petition but before conversion, except if the case is converted from chapter 13 to chapter 7 and § 348(f)(2) does not apply;<br><br>(ii) a schedule of unpaid debts not listed in the final report and account incurred after confirmation but before the conversion; and<br><br>(iii) a schedule of executory contracts and unexpired leases entered into or assumed after the filing of the petition but before conversion.<br><br>(D) Transmission to United States Trustee. The clerk shall forthwith transmit to the United States trustee a copy of every schedule filed pursuant to Rule 1019(5). | and address of each claim holder; and<br><br>(B) within 30 days after conversion, the trustee must file and send to the United States trustee a final report and account.<br><br>(3) ***Converting a Case to Chapter 7 After a Plan Has Been Confirmed.*** Unless the court orders otherwise, if a case under Chapter 11, 12, or 13 is converted to a case under Chapter 7 ~~After~~ after a plan is confirmed, the debtor must file:<br><br>(A) a schedule of property that was acquired after the petition was filed but before conversion and was not listed in the final report and account, except when a Chapter 13 case is converted to Chapter 7 and § 348(f)(2) does not apply;<br><br>(B) a schedule of unpaid debts that were incurred after confirmation but before conversion and were not listed in the final report and account; and<br><br>(C) a schedule of executory contracts and unexpired leases that were entered into or assumed after the petition was filed but before conversion.<br><br>(4) ***Copy to the United States Trustee.*** The clerk must promptly send to the United States trustee a copy of any schedule filed under this Rule 1019(e). |

| ORIGINAL | REVISION |
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| (6) *Postpetition Claims; Preconversion Administrative Expenses; Notice.* A request for payment of an administrative expense incurred before conversion of the case is timely filed under § 503(a) of the Code if it is filed before conversion or a time fixed by the court. If the request is filed by a governmental unit, it is timely if it is filed before conversion or within the later of a time fixed by the court or 180 days after the date of the conversion. A claim of a kind specified in § 348(d) may be filed in accordance with Rules 3001(a)–(d) and 3002. Upon the filing of the schedule of unpaid debts incurred after commencement of the case and before conversion, the clerk, or some other person as the court may direct, shall give notice to those entities listed on the schedule of the time for filing a request for payment of an administrative expense and, unless a notice of insufficient assets to pay a dividend is mailed in accordance with Rule 2002(e), the time for filing a claim of a kind specified in § 348(d). | **(f) Preconversion Administrative Expenses; Postpetition Claims~~; Preconversion Administrative Expenses~~.**<br>(1) ***Request to Pay an Administrative Expense; Time to File.*** A request to pay an administrative expense incurred before conversion is timely filed under § 503(a) if it is filed before conversion or within a time set by the court. Such a request by a governmental unit is timely if it is filed:<br>(A) before conversion; or<br>(B) within 180 days after conversion or within a time set by the court, whichever is later.<br>(2) ***Proof of Claim Against the Debtor or the Estate.*** A proof of claim under § 348(d) against either the debtor or the estate may be filed as specified in Rules 3001(a)–(d) and 3002.<br>(3) ***Giving Notice of Certain Time Limits.*** After the filing of a schedule of debts incurred after the case was commenced but before conversion, the clerk, or the court's designee, must notify the entities listed on the schedule of:<br>(A) the time to request payment of an administrative expense; and<br>(B) the time to file a proof of claim under § 348(d), unless a notice of insufficient assets to pay a dividend has been mailed under Rule 2002(e). |

**Committee Note**

The language of Rule 1019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 1020. Chapter 11 Reorganization Case for Small Business Debtors** | **Rule 1020. Designating a Chapter 11 Debtor as a Small Business Debtor** |
| (a) SMALL BUSINESS DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor and, if so, whether the debtor elects to have subchapter V of chapter 11 apply. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor and, if so, whether the debtor elects to have subchapter V of chapter 11 apply. The status of the case as a small business case or a case under subchapter V of chapter 11 shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect. | **(a) In General.** In a voluntary Chapter 11 case, the debtor must state in the petition whether the debtor is a small business debtor and, if so, whether the debtor elects to have Subchapter V of Chapter 11 apply. In an involuntary Chapter 11 case, the debtor must provide the same information in a statement filed within 14 days after the order for reliefentered. The ~~do so in a statement filed within14 days after the order for relief is entered. Unless (c) provides otherwise, the~~ case must proceed in accordance with the debtor's statement, unless and until the court issues an order finding that the ~~debtor's~~ statement is incorrect. |
| (b) OBJECTING TO DESIGNATION. The United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) no later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later. | **(b) Objecting to the Designation.** ~~Unless (c) provides otherwise, t~~The United States trustee or a party in interest may object to the debtor's designation. The objection must be filed within 30 days after the conclusion of the meeting of creditors held under § 341(a) or within 30 days after an amendment to the designation is filed, whichever is later. |

| ORIGINAL | REVISION |
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| (c) PROCEDURE FOR OBJECTION OR DETERMINATION. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on: the debtor; the debtor's attorney; the United States trustee; the trustee; the creditors included on the list filed under Rule 1007(d) or, if a committee has been appointed under § 1102(a)(3), the committee or its authorized agent; and any other entity as the court directs. | **(c) Procedure; Service.** An objection or request under this rule is governed by Rule 9014 and must be served on:<br>• the debtor;<br>• the debtor's attorney;<br>• the United States trustee;<br>• the trustee;<br>• the creditors included on the list filed under Rule 1007(d)—or if a committee has been appointed under § 1102(a)(3), the committee or its authorized agent; and<br>• ~~any committee appointed under § 1102 or its authorized agent, or, if no unsecured creditors' committee has been appointed, the creditors on the list filed under Rule 1007(d); and~~<br>• any other entity as the court orders. |

**Committee Note**

The language of Rule 1020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 1021. Health Care Business Case** | **Rule 1021. Designating a Chapter 7, 9, or 11 Case as a Health Care Business Case** |
| (a) HEALTH CARE BUSINESS DESIGNATION. Unless the court orders otherwise, if a petition in a case under chapter 7, chapter 9, or chapter 11 states that the debtor is a health care business, the case shall proceed as a case in which the debtor is a health care business. | **(a) In General.** If a petition in a Chapter 7, 9, or 11 case designates the debtor as a health care business, the case must proceed in accordance with the designation unless the court orders otherwise. |
| (b) MOTION. The United States trusteeor a party in interest may file a motion to determine whether the debtor is a health care business. The motion shall be transmitted to the United States trustee and served on: the debtor; the trustee; any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, the creditors included on the list filed under Rule 1007(d); and any other entity as thecourt directs. The motion shall be governed by Rule 9014. | **(b) Seeking a Court Determination.** The United States trustee or a party in interest may move the court to determine whether the debtor is a health care business. Proceedings on the motion are governed by Rule 9014. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. The motion must be served on:<br>• the debtor;<br>• the trustee;<br>• any committee elected under § 705 or appointed under § 1102, or its authorized agent;<br>• in a Chapter 9 or Chapter 11 case in which an unsecured creditors' committee has not been appointed under § 1102, the creditors on the list filed under Rule 1007(d); and<br>• any other entity as the court orders. |

**Committee Note**

The language of Rule 1021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 2000 Series

| ORIGINAL | REVISION |
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| PART II—OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS | **PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS AND APPOINTMENTS; FINAL REPORT; COMPENSATION** |
| **Rule 2001. Appointment of Interim Trustee Before Order for Relief in a Chapter 7 Liquidation Case** | **Rule 2001. Appointing an Interim Trustee Before the Order for Relief in an Involuntary Chapter 7 Case** |
| (a) APPOINTMENT. At any time following the commencement of an involuntary liquidation case and before an order for relief, the court on written motion of a party in interest may order the appointment of an interim trustee under § 303(g) of the Code. The motion shall set forth the necessity for the appointment and may be granted only after hearing on notice to the debtor, the petitioning creditors, the United States trustee, and other parties in interest as the court may designate. | **(a) Appointing an Interim Trustee.** After an involuntary Chapter 7 case commences but before an order for relief, the court may, on a party in interest's motion, order the United States trustee to appoint an interim trustee under § 303(g). The motion must set forth the need for the appointment and may be granted only after a hearing on notice to:<br>• the debtor;<br>• the petitioning creditors;<br>• the United States trustee; and<br>• other parties in interest as the court orders. |
| (b) BOND OF MOVANT. An interim trustee may not be appointed under this rule unless the movant furnishes a bond in an amount approved by the court, conditioned to indemnify the debtor for costs, attorney's fee, expenses, and damages allowable under § 303(i) of the Code. | **(b) Bond Required.** An interim trustee may be appointed only if the movant furnishes a bond, in an amount that the court approves, to indemnify the debtor for any costs, attorney's fees, expenses, and damages allowable under § 303(i). |
| (c) ORDER OF APPOINTMENT. The order directing the appointment of an interim trustee shall state the reason the appointment is necessary and shall specify the trustee's duties. | **(c) The Order's Content.** The court's order must state the reason the appointment is needed and specify the trustee's duties. |

| ORIGINAL | REVISION |
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| (d) TURNOVER AND REPORT. Following qualification of the trustee selected under § 702 of the Code, the interim trustee, unless otherwise ordered, shall (1) forthwith deliver to the trustee all the records and property of the estate in possession or subject to control of the interim trustee and, (2) within 30 days thereafter file a final report and account. | **(d) The Interim Trustee's Final Report.** Unless the court orders otherwise, after the qualification of a trustee selected under § 702, the interim trustee must:<br>(1) promptly deliver to the trustee all the records and property of the estate that are in the interim trustee's possession or under its control; and<br>(2) within 30 days after the trustee qualifies, file a final report and account. |

**Committee Note**

The language of Rule 2001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee** | **Rule 2002. Notices** |
| (a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of:<br><br>(1) the meeting of creditors under § 341 or § 1104(b) of the Code, which notice, unless the court orders otherwise, shall include the debtor's employer identification number, social security number, and any other federal taxpayer identification number;<br><br>(2) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice;<br><br>(3) the hearing on approval of a compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent;<br><br>(4) in a chapter 7 liquidation, a chapter 11 reorganization case, or a chapter 12 family farmer debt adjustment case, the hearing on the dismissal of the case or the conversion of the case to another chapter, unless the hearing is under § 707(a)(3) or § 707(b) or is on dismissal of the case for | **(a) 21-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees.** Except as (h), (i), (l), (p), and (q) provide otherwise, the clerk or the court's designee must give the debtor, the trustee, all creditors, and all indenture trustees at least 21 days' notice by mail of:<br><br>(1) the meeting of creditors under § 341 or § 1104(b), which notice—unless the court orders otherwise—must include the debtor's:<br><br>(A) employer-identification number;<br><br>(B) social-security number; and<br><br>(C) any other federal taxpayer-identification number;<br><br>(2) a proposal to use, sell, or lease property of the estate other than in the ordinary course of business—unless the court, for cause, shortens the time or orders another method of giving notice;<br><br>(3) a hearing to approve a compromise or settlement other than an agreement under Rule 4001(d)—unless the court, for cause, orders that notice not be ~~sent~~given;<br><br>(4) a hearing on a motion to dismiss a Chapter 7, 11, or 12 case or to convert it to another chapter—unless the hearing is under § 707(a)(3) or § 707(b) or is on a motion to dismiss the case for failure to pay the filing fee; |

| ORIGINAL | REVISION |
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| failure to pay the filing fee;<br><br>(5) the time fixed to accept or reject a proposed modification of a plan;<br><br>(6) a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds $1,000;<br><br>(7) the time fixed for filing proofs of claims pursuant to Rule 3003(c);<br><br>(8) the time fixed for filing objections and the hearing to consider confirmation of a chapter 12 plan; and<br><br>(9) the time fixed for filing objections to confirmation of a chapter 13 plan. | (5) the time to accept or reject a proposed modification to a plan;<br><br>(6) a hearing on a request for compensation or for reimbursement of expenses, if the request exceeds $1,000;<br><br>(7) the time to file a proof of claim~~s~~ under Rule 3003(c);<br><br>(8) the time to file an objection~~s~~ to—and the time of the hearing to consider whether to confirm—a Chapter 12 plan; and<br><br>(9) the time to object to confirming a Chapter 13 plan. |
| (b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; (2) for filing objections and the hearing to consider confirmation of a chapter 9 or chapter 11 plan; and (3) for the hearing to consider confirmation of a chapter 13 plan. | **(b) 28-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees.** Except as (l) provides otherwise, the clerk or the court's designee must give the debtor, trustee, all creditors, and all indenture trustees at least 28 days' notice by mail of:<br><br>(1) the time to file an objection~~s~~ and the time of the hearing to:<br><br>(A) consider approving a disclosure statement; or<br><br>(B) determine under § 1125(f) whether a plan includes adequate information to make a separate disclosure statement unnecessary;<br><br>(2) the time to file an objection~~s~~ to—and the time of the hearing to consider whether to confirm—a Chapter 9 or 11 plan; and<br><br>(3) the time of the hearing to consider whether to confirm a Chapter 13 plan. |

| ORIGINAL | REVISION |
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| (c) CONTENT OF NOTICE.<br><br>(1) *Proposed Use, Sale, or Lease of Property.* Subject to Rule 6004, the notice of a proposed use, sale, or lease of property required by subdivision (a)(2) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. The notice of a proposed use, sale, or lease of property, including real estate, is sufficient if it generally describes the property. The notice of a proposed sale or lease of personally identifiable information under § 363(b)(1) of the Code shall state whether the sale is consistent with any policy prohibiting the transfer of the information.<br><br>(2) *Notice of Hearing on Compensation.* The notice of a hearing on an application for compensation or reimbursement of expenses required by subdivision (a)(6) of this rule shall identify the applicant and the amounts requested.<br><br>(3) *Notice of Hearing on Confirmation When Plan Provides for an Injunction.* If a plan provides for an injunction against conduct not otherwise enjoined under the Code, the notice required under Rule 2002(b)(2) shall:<br><br>(A) include in conspicuous language (bold, italic, or underlined text) a statement that the plan proposes an injunction;<br><br>(B) describe briefly the nature of the injunction; and<br><br>(C) identify the entities that would be subject to the injunction. | **(c) Content of a Notice.**<br><br>(1) ***Proposed Use, Sale, or Lease of Property.*** Subject to Rule 6004, a notice of a proposed use, sale, or lease of property under (a)(2) must include:<br><br>(A) a general description of the property;<br><br>(B) the time and place of any public sale;<br><br>(C) the terms and conditions of any private sale; ~~and~~<br><br>(D) the time to file objections~~.~~; and<br><br>(E) ~~The notice suffices if it generally describes the property. In a notice of~~for a proposed sale or lease of personally identifiable information under § 363(b)(1), ~~the notice must state~~ a statement whether the sale is consistent with any policy that prohibits transferring the information.<br><br>(2) ***Hearing on an Application for Compensation or Reimbursement.*** A notice under (a)(6) of a hearing on a request for compensation or for reimbursement of expenses must identify the applicant and the amounts requested.<br><br>(3) ***Hearing on Confirming a Plan That Proposes an Injunction.*** If a plan proposes an injunction against conduct not otherwise enjoined under the Code, the notice under (b)(2) must:<br><br>(A) state in conspicuous language (bold, italic, or underlined text) that the plan proposes an injunction;<br><br>(B) describe briefly the nature of the injunction; and<br><br>(C) identify the entities that would be |

| ORIGINAL | REVISION |
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| | subject to ~~the injunction~~it. |
| (d) NOTICE TO EQUITY SECURITY HOLDERS. In a chapter 11 reorganization case, unless otherwise ordered by the court, the clerk, or some other person as the court may direct, shall in the manner and form directed by the court give notice to all equity security holders of (1) the order for relief; (2) any meeting of equity security holders held pursuant to § 341 of the Code; (3) the hearing on the proposed sale of all or substantially all of the debtor's assets; (4) the hearing on the dismissal or conversion of a case to another chapter; (5) the time fixed for filing objections to and the hearing to consider approval of a disclosure statement; (6) the time fixed for filing objections to and the hearing to consider confirmation of a plan; and (7) the time fixed to accept or reject a proposed modification of a plan. | **(d) Notice to Equity Security Holders in a Chapter 11 Case.** Unless the court orders otherwise, in a Chapter 11 case~~,~~ the clerk or the court's designee must give notice as the court orders to the equity security holders of:<br>(1) the order for relief;<br>(2) a meeting of equity security holders under § 341;<br>(3) a hearing on a proposed sale of all, or substantially all, the debtor's assets;<br>(4) a hearing on a motion to dismiss a case or convert it to another chapter;<br>(5) the time to file an objection~~s~~ to—and the time of the hearing to consider whether to approve—a disclosure statement;<br>(6) the time to file an objection~~s~~ to—and the time of the hearing to consider whether to confirm—a Chapter 11 plan; and<br>(7) the time to accept or reject a proposal to modify a plan. |
| (e) NOTICE OF NO DIVIDEND. In a chapter 7 liquidation case, if it appears from the schedules that there are no assets from which a dividend can be paid, the notice of the meeting of creditors may include a statement to that effect; that it is unnecessary to file claims; and that if sufficient assets become available for the payment of a dividend, further notice will be given for the filing of claims. | **(e) Giving Notice of No Dividend in a Chapter 7 Case.** In a Chapter 7 case, if it appears from the schedules that there are no assets from which to pay a dividend, the notice of the meeting of creditors may state:<br>(1) that fact;<br>(2) that filing proofs of claim is unnecessary; and<br>(3) that further notice of the time to file proofs of claim will be given if enough assets become available to pay a dividend. |

| ORIGINAL | REVISION |
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| (f) OTHER NOTICES. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees notice by mail of:<br><br>(1) the order for relief;<br><br>(2) the dismissal or the conversion of the case to another chapter, or the suspension of proceedings under § 305;<br><br>(3) the time allowed for filing claims pursuant to Rule 3002;<br><br>(4) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004;<br><br>(5) the time fixed for filing a complaint to determine the dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007;<br><br>(6) the waiver, denial, or revocation of a discharge as provided in Rule 4006;<br><br>(7) entry of an order confirming a chapter 9, 11, 12, or 13 plan;<br><br>(8) a summary of the trustee's final report in a chapter 7 case if the net proceeds realized exceed $1,500;<br><br>(9) a notice under Rule 5008 regarding the presumption of abuse;<br><br>(10) a statement under § 704(b)(1) as to whether the debtor's case would be presumed to be an abuse under § 707(b); and<br><br>(11) the time to request a delay in the entry of the discharge under §§ 1141(d)(5)(C), 1228(f), and 1328(h). Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) | **(f) Other Notices.**<br><br>(1) ***Various Notices to the Debtor, Creditors, and Indenture Trustees.*** Except as (l) provides otherwise, the clerk, or some other person as the court may direct, must give the debtor, creditors, and indenture trustees notice by mail of:<br><br>(A) the order for relief;<br><br>(B) a case's dismissal or conversion to another chapter;<br><br>(C) a suspension of proceedings under § 305;<br><br>(D) the time to file a proof of claim under Rule 3002;<br><br>(E) the time to file a complaint to object to the debtor's discharge under § 727, as Rule 4004 provides;<br><br>(F) the time to file a complaint to determine whether a debt is dischargeable under § 523, as Rule 4007 provides;<br><br>(G) a waiver, denial, or revocation of a discharge, as Rule 4006 provides;<br><br>(H) entry of an order confirming a plan in a Chapter 9, 11, 12 or 13 case;<br><br>(I) a summary of the trustee's final report in a Chapter 7 case if the net proceeds realized exceed $1,500;<br><br>(J) a notice under Rule 5008 regarding the presumption of abuse;<br><br>(K) a statement under § 704(b)(1) about whether the debtor's case would be presumed to be an abuse under § 707(b); and<br><br>(L) the time to request a delay in granting the discharge under §§ 1141(d)(5)(C), 1228(f), or 1328(h). |

| ORIGINAL | REVISION |
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| shall be given in accordance with Rule 3017(d). | (2) ***Notice of the Time to Accept or Reject a Plan.*** Notice of the time to accept or reject a plan under Rule 3017(c) must be given in accordance with Rule 3017(d). |
| (g) ADDRESSING NOTICES.<br><br>(1) Notices required to be mailed under Rule 2002 to a creditor, indenture trustee, or equity security holder shall be addressed as such entity or an authorized agent has directed in its last request filed in the particular case. For the purposes of this subdivision—<br><br>(A) a proof of claim filed by a creditor or indenture trustee that designates a mailing address constitutes a filed request to mail notices to that address, unless a notice of no dividend has been given under Rule 2002(e) and a later notice of possible dividend under Rule 3002(c)(5) has not been given; and<br><br>(B) a proof of interest filed by an equity security holder that designates a mailing address constitutes a filed request to mail notices to that address.<br><br>(2) Except as provided in § 342(f) of the Code, if a creditor or indenture trustee has not filed a request designating a mailing address under Rule 2002(g)(1) or Rule 5003(e), the notices shall be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request designating a mailing address under Rule 2002(g)(1) or Rule 5003(e), the notices shall be mailed to the address shown on the list of equity security holders.<br><br>(3) If a list or schedule filed under Rule 1007 includes the name and | **(g) Addressing Notices.**<br><br>(1) ***In General.*** A notice mailed to a creditor, indenture trustee, or equity security holder must be addressed as the entity or its authorized agent provided in its last request filed in the case. The request may be:<br><br>(A) a proof of claim filed by a creditor or an indenture trustee designating a mailing address (unless a notice of no dividend has been given under (e) and a later notice of a possible dividend under Rule 3002(c)(5) has not been given); or<br><br>(B) a proof of interest filed by an equity security holder designating a mailing address.<br><br>(2) ***When No Request Has Been Filed.*** Except as § 342(f) provides otherwise, if a creditor or indenture trustee has not filed a request under (1) or Rule 5003(e), the notice must be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request, the notice must be mailed to the address shown on the list of equity security holders.<br><br>(3) ***Notices to Representatives of an Infant or Incompetent Person.*** ~~If~~ This paragraph (3) applies if a list or schedule filed under Rule 1007 includes a name and address of an infant's or an incompetent person's representative, and a person other |

| ORIGINAL | REVISION |
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| address of a legal representative of an infant or incompetent person, and a person other than that representative files a request or proof of claim designating a name and mailing address that differs from the name and address of the representative included in the list or schedule, unless the court orders otherwise, notices under Rule 2002 shall be mailed to the representative included in the list or schedules and to the name and address designated in the request or proof of claim.<br><br>(4) Notwithstanding Rule 2002(g)(1)–(3), an entity and a notice provider may agree that when the notice provider is directed by the court to give a notice, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.<br><br>(5) A creditor may treat a notice as not having been brought to the creditor's attention under § 342(g)(1) only if, prior to issuance of the notice, the creditor has filed a statement that designates the name and address of the person or organizational subdivision of the creditor responsible for receiving notices under the Code, and that describes the procedures established by the creditor to cause such notices to be delivered to the designated person or subdivision. | than that representative files a request or proof of claim designating a different name and mailing address.~~, then unless~~ Unless the court orders otherwise, the notice ~~must be mailed to both persons at their designated addresses.~~must be mailed to the designated address of:<br><br>(A) the representative; and<br><br>(B) the person filing the request or proof of claim.<br><br>(4) ***Using an Address Agreed to Between an Entity and a Notice Provider.*** Notwithstanding (g)(1)–~~-~~(3), when the court orders that ~~a~~ notice ~~provider give a notice~~be given, the notice provider may do so in the manner agreed to between the provider and an entity, and at the address or addresses the entity supplies. An address supplied by the entity is conclusively presumed to be a proper address~~ for the notice~~. But a failure to use a supplied address does not invalidate a notice that is otherwise effective under applicable law.<br><br>(5) ***When a Notice Is Not Brought to a Creditor's Attention.*** A creditor may treat a notice as not having been brought to the creditor's attention under § 342(g)(1) only if, before the notice was issued, the creditor has filed a statement:<br><br>(A) designating the name and address of the person or organizational subdivision responsible for receiving notices; and<br><br>(B) describing the creditor's procedures for delivering notices to the designated person or organizational subdivision. |

| ORIGINAL | REVISION |
|---|---|
| (h) NOTICES TO CREDITORS WHOSE CLAIMS ARE FILED.<br><br>(1) *Voluntary Case.* In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, after 70 days following the order for relief under that chapter or the date of the order converting the case to chapter 12 or chapter 13, the court may direct that all notices required by subdivision (a) of this rule be mailed only to:<br><br>• the debtor;<br>• the trustee;<br>• all indenture trustees;<br>• creditors that hold claims for which proofs of claim have been filed; and<br>• creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2).<br><br>(2) *Involuntary Case.* In an involuntary chapter 7 case, after 90 days following the order for relief under that chapter, the court may direct that all notices required by subdivision (a) of this rule be mailed only to:<br><br>• the debtor;<br>• the trustee;<br>• all indenture trustees;<br>• creditors that hold claims for which proofs of claim have been filed; and<br>• creditors, if any, that are still permitted to file claims because an extension was granted | **(h) Notice to Creditors ~~with~~ Who Filed Proofs of Claim in a Chapter 7, ~~Chapter~~ 12, or ~~Chapter~~ 13 Case.**<br><br>(1) ***Voluntary Case.*** This paragraph (1) applies in a voluntary Chapter 7 case, or in a Chapter 12 or 13 case. After 70 days following the order for relief under that chapter or the date of the order converting the case to Chapter 12 or 13, the court may direct that all notices required by (a) be mailed only to:<br><br>• the debtor;<br>• the trustee;<br>• indenture trustees;<br>• creditors with claims for which proofs of claim have been filed; and<br>• creditors that are still permitted to file proofs of claim because they have received an extension of time under Rule 3002(c)(1) or (2).<br><br>(2) ***Involuntary Case.*** In an involuntary chapter 7 case, after 90 days following the order for relief ~~under that chapter~~, the court may order that all notices required by (a) be mailed only to ~~:~~<br><br>~~• the debtor;~~<br>~~• the trustee;~~<br>~~• indenture trustees;~~<br>~~• creditors with claims for which proofs of claim have been filed; and~~<br>~~• creditors that are still permitted to file proofs of claim because they have received an extension of time under Rule 3002(c)(1) or~~ |

| ORIGINAL | REVISION |
|---|---|
| under Rule 3002(c)(1) or (c)(2).<br><br>(3) *Insufficient Assets.* In a case where notice of insufficient assets to pay a dividend has been given to creditors under subdivision (e) of this rule, after 90 days following the mailing of a notice of the time for filing claims under Rule 3002(c)(5), the court may direct that notices be mailed only to the entities specified in the preceding sentence. | ~~(2).~~ those entities listed in (1).<br><br>(3) ***When ~~a~~ Notice of Insufficient Assets Has Been Given.*** If notice of insufficient assets to pay a dividend has been given to creditors under (e), after 90 days following the mailing of a notice of the time to file proofs of claim under Rule 3002(c)(5), the court may order that notices be mailed only to those entities listed in (1). |
| (i) NOTICES TO COMMITTEES. Copies of all notices required to be mailed pursuant to this rule shall be mailed to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents. Notwithstanding the foregoing subdivisions, the court may order that notices required by subdivision (a)(2), (3) and (6) of this rule be transmitted to the United States trustee and be mailed only to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents and to the creditors and equity security holders who serve on the trustee or debtor in possession and file a request that all notices be mailed to them. A committee appointed under § 1114 shall receive copies of all notices required by subdivisions (a)(1), (a)(5), (b), (f)(2), and (f)(7), and such other notices as the court may direct. | **(i) Notice to a Committee.**<br><br>(1) ***In General.*** Any notice required to be mailed under this Rule 2002 must also be mailed to a committee elected under § 705 or appointed under § 1102, or to its authorized agent.<br><br>(2) ***Limiting Notices.*** The court may order that a notice required by (a)(2), (3), or (6) be:<br><br>(A) sent to the United States trustee; and<br><br>(B) mailed only to:<br><br>(i) the committees elected under § 705 or appointed under § 1102, or to their authorized agents; and<br><br>(ii) those creditors and equity security holders who file—and serve on the trustee or debtor in possession—a request that all notices be mailed to them.<br><br>(3) ***Copy to a Committee.*** A notice required under (a)(1), (a)(5), (b), (f)(1)(B)–(C), or (f)(1)(H)—and any other notice as the court orders—must be sent to a committee appointed under § 1114. |

| ORIGINAL | REVISION |
|---|---|
| (j) NOTICES TO THE UNITED STATES. Copies of notices required to be mailed to all creditors under this rule shall be mailed (1) in a chapter 11 reorganization case, to the Securities and Exchange Commission at any place the Commission designates, if the Commission has filed either a notice of appearance in the case or a written request to receive notices; (2) in a commodity broker case, to the Commodity Futures Trading Commission at Washington, D.C.; (3) in a chapter 11 case, to the Internal Revenue Service at its address set out in the register maintained under Rule 5003(e) for the district in which the case is pending; (4) if the papers in the case disclose a debt to the United States other than for taxes, to the United States attorney for the district in which the case is pending and to the department, agency, or instrumentality of the United States through which the debtor became indebted; or (5) if the filed papers disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D.C. | **(j) Notice to the United States.** A notice required to be mailed to all creditors under this Rule 2002 must also be mailed:<br>(1) in a Chapter 11 case in which the Securities and Exchange Commission has filed either a notice of appearance or a request to receive notices, to the SEC at any place it designates;<br>(2) in a commodity-broker case, to the Commodity Futures Trading Commission at Washington, D.C.;<br>(3) in a Chapter 11 case, to the Internal Revenue Service at the address in the register maintained under Rule 5003(e) for the district where the case is pending;<br>(4) in a case ~~for~~ in which the ~~papers~~ documents ~~indicate~~ disclose that a debt (other than for taxes) is owed to the United States, to the United States attorney for the district where the case is pending and to the United States department, agency, or instrumentality through which the debtor became indebted; or<br>(5) in a case ~~for~~ in which the ~~papers~~ filed documents disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D.C. |

| ORIGINAL | REVISION |
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| (k) NOTICES TO UNITED STATES TRUSTEE. Unless the case is a chapter 9 municipality case or unless the United States trustee requests otherwise, the clerk, or some other person as the court may direct, shall transmit to the United States trustee notice of the matters described in subdivisions (a)(2), (a)(3), (a)(4), (a)(8), (a)(9), (b), (f)(1), (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), and (q) of this rule and notice of hearings on all applications for compensation or reimbursement of expenses. Notices to the United States trustee shall be transmitted within the time prescribed in subdivision (a) or (b) of this rule. The United States trustee shall also receive notice of any other matter if such notice is requested by the United States trustee or ordered by the court. Nothing in these rules requires the clerk or any other person to transmit to the United States trustee any notice, schedule, report, application or other document in a case under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et. seq. | **(k) Notice to the United States Trustee.**<br>(1) ***In General.*** Except in a Chapter 9 case or unless the United States trustee requests otherwise, the clerk or the court's designee must send to the United States trustee notice of:<br>(A) all matters described in (a)(2)–(4), (a)(8)–(9), (b), (f)(1)(A)–(C), (f)(1)(E), (f)(1)(G)–(I), and (q);<br>(B) all hearings on applications for compensation or for reimbursement of expenses; and<br>(C) any other matter if the United States trustee requests it or the court orders it.<br>(2) ***Time to Send.*** The notice must be sent within the time that (a) or (b) prescribes.<br>(3) ***Exception Under the Securities Investor Protection Act.*** In a case under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq., these rules do not require any document to be sent to the United States trustee. |
| (*l*) NOTICE BY PUBLICATION. The court may order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice. | **(l) Notice by Publication.** The court may order notice by publication if notice by mail is impracticable or if it is desirable to supplement the notice. |
| (m) ORDERS DESIGNATING MATTER OF NOTICES. The court may from time to time enter orders designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules. | **(m) Orders Concerning Notices.** Except as these rules provide otherwise, the court may designate the matters about which, the entity to whom, and the form and manner in which a notice must be sent. |

| ORIGINAL | REVISION |
|---|---|
| (n) CAPTION. The caption of every notice given under this rule shall comply with Rule 1005. The caption of every notice required to be given by the debtor to a creditor shall include the information required to be in the notice by § 342(c) of the Code. | **(n) Notice of an Order for Relief in a Consumer Case.** In a voluntary case commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order. |
| (o) NOTICE OF ORDER FOR RELIEF IN CONSUMER CASE. In a voluntary case commenced by an individual debtor whose debts are primarily consumer debts, the clerk or some other person as the court may direct shall give the trustee and all creditors notice by mail of the order for relief within 21 days from the date thereof. | **(o) Caption.** The caption of a notice given under this Rule 2002 must conform to Rule 1005. The caption of a debtor's notice to a creditor must also include the information that § 342(c) requires. |
| (p) NOTICE TO A CREDITOR WITH A FOREIGN ADDRESS.<br><br>(1) If, at the request of the United States trustee or a party in interest, or on its own initiative, the court finds that a notice mailed within the time prescribed by these rules would not be sufficient to give a creditor with a foreign address to which notices under these rules are mailed reasonable notice under the circumstances, the court may order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be enlarged.<br><br>(2) Unless the court for cause orders otherwise, a creditor with a foreign address to which notices under this rule are mailed shall be given at least 30 days' notice of the time fixed for filing a proof of claim under Rule 3002(c) or Rule 3003(c).<br><br>(3) Unless the court for cause orders otherwise, the mailing address of | **(p) Notice to a Creditor with a Foreign Address.**<br><br>(1) ***When Notice by Mail Does Not Suffice.*** At the request of the United States trustee or a party in interest, or on its own, the court may find that a notice mailed to a creditor with a foreign address within the time these rules prescribe would not give the creditor reasonable notice. The court may then order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be extended.<br><br>(2) ***Notice of the Time to File a Proof of Claim.*** Unless the court, for cause, orders otherwise, a creditor with a foreign address must be given at least 30 days' notice of the time to file a proof of claim under Rule 3002(c) or Rule 3003(c).<br><br>(3) ***Determining a Foreign Address.*** Unless the court, for cause, orders otherwise, the mailing address of a |

| ORIGINAL | REVISION |
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| a creditor with a foreign address shall be determined under Rule 2002(g). | creditor with a foreign address must be determined under (g). |
| (q) NOTICE OF PETITION FOR RECOGNITION OF FOREIGN PROCEEDING AND OF COURT'S INTENTION TO COMMUNICATE WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES.<br><br>(1) *Notice of Petition for Recognition.* After the filing of a petition for recognition of a foreign proceeding, the court shall promptly schedule and hold a hearing on the petition. The clerk, or some other person as the court may direct, shall forthwith give the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, at least 21 days' notice by mail of the hearing. The notice shall state whether the petition seeks recognition as a foreign main proceeding or foreign nonmain proceeding and shall include the petition and any other document the court may require. If the court consolidates the hearing on the petition with the hearing on a request for provisional relief, the court may set a shorter notice period, with notice to the entities listed in this subdivision.<br><br>(2) *Notice of Court's Intention to Communicate with Foreign Courts and Foreign Representatives.* The clerk, or some other person as the court may direct, shall give the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being | **(q) Notice of a Petition for Recognition of a Foreign Proceeding; Notice of an Intent to Communicate with a Foreign Court or Foreign Representative.**<br><br>(1) ***Timing of the Notice; Who Must Receive It.*** After a petition for recognition of a foreign proceeding is filed, the court must promptly hold a hearing on it. The clerk or the court's designee must promptly give at least 21 days' notice by mail of the hearing to:<br><br>• the debtor;<br><br>• all persons or bodies authorized to administer the debtor's foreign proceedings;<br><br>• all entities against whom provisional relief is being sought under § 1519;<br><br>• all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and<br><br>• any other entities as the court orders.<br><br>If the court consolidates the hearing on the petition with a hearing on a request for provisional relief, the court may set a shorter notice period.<br><br>(2) ***Content~~s~~ of the Notice.*** The notice must:<br><br>(A) state whether the petition seeks recognition as a foreign main proceeding or a foreign nonmain proceeding; and<br><br>(B) include a copy of the petition and any other document the court specifies. |

| ORIGINAL | REVISION |
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| sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, notice by mail of the court's intention to communicate with a foreign court or foreign representative. | (3) ***Communicating with a Foreign Court or Foreign Representative.*** If the court intends to communicate with a foreign court or foreign representative, the clerk or the court's designee must give notice by mail of the court's intention to all those listed in (q)(1). |

**Committee Note**

The language of most provisions in Rule 2002 have been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. In (f) the phrase "or some other person as the court may direct" has not been restyled because it was enacted by Congress, P.L. 98-91, 97 Stat. 607, § 2 (1983). Rule 2002(n) has not been restyled because it was also enacted by Congress, P.L. 98-353, 98 Stat. 357, § 114 (1984). That subsection was erroneously redesignated as subdivision (o) in 2008, and amended to modify its time period from 20 to 21 days in 2009. Because the Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075, provides no authority to modify statutory language, the subdivision is now returned to the language used by Congress.

| ORIGINAL | REVISION |
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| **Rule 2003. Meeting of Creditors or Equity Security Holders** | **Rule 2003. Meeting of Creditors or Equity Security Holders** |
| (a) DATE AND PLACE. Except as otherwise provided in § 341(e) of the Code, in a chapter 7 liquidation or a chapter 11 reorganization case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 40 days after the order for relief. In a chapter 12 family farmer debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 35 days after the order for relief. In a chapter 13 individual's debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 50 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a later date for the meeting. The meeting may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest. If the United States trustee designates a place for the meeting which is not regularly staffed by the United States trustee or an assistant who may preside at the meeting, the meeting may be held not more than 60 days after the order for relief. | **(a) Date and Place of the Meeting.**<br>(1) ***Date.*** ~~Unless~~ Except as provided in § 341(e~~) applies)~~, the United States trustee must call a meeting of creditors to be held:<br>(A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief;<br>(B) in a Chapter 12 case, no fewer than 21 days and no more than 35 days after the order for relief; or<br>(C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief.<br>(2) ***Effect of a Motion or an Appeal.*** The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.<br>(3) ***Place; Possible Change in the Meeting Date.*** The meeting may be held at a regular place for holding court. Or the United States trustee may designate any other place in the district that is convenient for the parties in interest. If the designated meeting place is not regularly staffed by the United States trustee or an assistant who may preside, the meeting may be held no more than 60 days after the order for relief. |

| ORIGINAL | REVISION |
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| (b) ORDER OF MEETING.<br><br>(1) *Meeting of Creditors.* The United States trustee shall preside at the meeting of creditors. The business of the meeting shall include the examination of the debtor under oath and, in a chapter 7 liquidation case, may include the election of a creditors' committee and, if the case is not under subchapter V of chapter 7, the election of a trustee. The presiding officer shall have the authority to administer oaths.<br><br>(2) *Meeting of Equity Security Holders.* If the United States trustee convenes a meeting of equity security holders pursuant to § 341(b) of the Code, the United States trustee shall fix a date for the meeting and shall preside.<br><br>(3) *Right To Vote.* In a chapter 7 liquidation case, a creditor is entitled to vote at a meeting if, at or before the meeting, the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote pursuant to § 702(a) of the Code unless objection is made to the claim or the proof of claim is insufficient on its face. A creditor of a partnership may file a proof of claim or writing evidencing a right to vote for the trustee for the estate of the general partner notwithstanding that a trustee for the estate of the partnership has previously qualified. In the event of an objection to the amount or allowability of a claim for the purpose of voting, unless the court orders otherwise, the United States trustee shall tabulate the votes for each alternative presented by the dispute and, if resolution of such dispute is necessary to determine the result of the election, the tabulations for each alternative shall be reported to the court. | **(b) Conducting the Meeting; Agenda; Who May Vote.**<br><br>(1) ***At a Meeting of Creditors.***<br><br>(A) *Generally.* The United States trustee must preside at the meeting of creditors. The meeting must include an examination of the debtor under oath. The presiding officer has the authority to administer oaths.<br><br>(B) *Chapter 7 Cases.* In a Chapter 7 case, the meeting may include the election of a creditors' committee; and if the case is not under Subchapter V, the meeting may include electing a trustee.<br><br>(2) ***At a Meeting of Equity Security Holders.*** If the United States trustee convenes a meeting of equity security holders under § 341(b), the United States trustee must set a date for the meeting and preside over it.<br><br>(3) ***Who Has a Right to Vote; Objecting to the Right to Vote.***<br><br>(A) *In a Chapter 7 Case.* A creditor in a Chapter 7 case may vote if, at or before the meeting:<br><br>(i) the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote under § 702(a);<br><br>(ii) the proof of claim is not insufficient on its face; and<br><br>(iii) no objection is made to the claim.<br><br>(B) *In a Partnership Case.* A creditor in a partnership case may file a proof of claim or a writing evidencing a right to vote for a trustee for the general partner's estate even if a trustee for the partnership's estate |

| ORIGINAL | REVISION |
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| | has previously qualified.<br>(C) *Objecting to the Amount or Allowability of a Claim for Voting Purposes.* Unless the court orders otherwise, if there is an objection to the amount or allowability of a claim for voting purposes, the United States trustee must tabulate the votes for each alternative presented by the dispute. If resolving the dispute is necessary to determine the election's result, the United States trustee must report to the court the tabulations for each alternative. |
| (c) RECORD OF MEETING. Any examination under oath at the meeting of creditors held pursuant to § 341(a) of the Code shall be recorded verbatim by the United States trustee using electronic sound recording equipment or other means of recording, and such record shall be preserved by the United States trustee and available for public access until two years after the conclusion of the meeting of creditors. Upon request of any entity, the United States trustee shall certify and provide a copy or transcript of such recording at the entity's expense. | **(c) Recording the Proceedings.** At the meeting of creditors under § 341(a), the United States trustee must:<br>(1) record verbatim—using electronic sound-recording equipment or other means of recording—all examinations under oath;<br>(2) preserve the recording and make it available for public access for 2 years after the meeting concludes; and<br>(3) upon request, certify and provide a copy or transcript of the recording to any entity at that entity's expense. |
| (d) REPORT OF ELECTION AND RESOLUTION OF DISPUTES IN A CHAPTER 7 CASE.<br>(1) *Report of Undisputed Election.* In a chapter 7 case, if the election of a trustee or a member of a creditors' committee is not disputed, the United States trustee shall promptly file a report of the election, including the name and address of the person or entity elected and a statement that the election is undisputed. | **(d) Reporting Election Results in a Chapter 7 Case.**<br>(1) ***Undisputed Election.*** In a Chapter 7 case, if the election of a trustee or a member of a creditors' committee is undisputed, the United States trustee must promptly file a report of the election. The report must include the name and address of the person or entity elected and a statement that the election was undisputed. |

| ORIGINAL | REVISION |
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| (2) *Disputed Election.* If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. No later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 14 days after the United States trustee files a report of a disputed election for trustee, the interim trustee shall serve as trustee in the case. | (2) ***Disputed Election.***<br>(A) *United States Trustee's Report.* If the election is disputed, the United States trustee must:<br>(i) promptly file a report informing the court of the nature of the dispute and listing the name and address of any candidate elected under any alternative presented by the dispute; and<br>(ii) no later than the date on which the report is filed, mail a copy to any party in interest that has requested one.<br>(B) *Interim Trustee.* Until the court resolves the dispute, the interim trustee continues in office. Unless a motion to resolve the dispute is filed within 14 days after the report is filed, the interim trustee serves as trustee in the case. |
| (e) ADJOURNMENT. The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time. The presiding official shall promptly file a statement specifying the date and time to which the meeting is adjourned. | **(e) Adjournment.** The presiding official may adjourn the meeting from time to time by announcing at the meeting the date and time to reconvene. The presiding official must promptly file a statement showing the adjournment and the date and time to reconvene. |
| (f) SPECIAL MEETINGS. The United States trustee may call a special meeting of creditors on request of a party in interest or on the United States trustee's own initiative. | **(f) Special Meetings of Creditors.** The United States trustee may call a special meeting of creditors or may do so on request of a party in interest. |

| ORIGINAL | REVISION |
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| (g) FINAL MEETING. If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $1,500, the clerk shall mail a summary of the trustee's final account to the creditors with a notice of the meeting, together with a statement of the amount of the claims allowed. The trustee shall attend the final meeting and shall, if requested, report on the administration of the estate. | **(g) Final Meeting of Creditors.** If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $1,500, the clerk must give notice of the meeting to the creditors. The notice must include a summary of the trustee's final account and a statement of the amount of the claims allowed. The trustee must attend the meeting and, if requested, report on the ~~administration of the~~ estate's administration. |

**Committee Note**

The language of Rule 2003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2004. Examination** | **Rule 2004. Examinations** |
| (a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity. | **(a) In General.** On a party in interest's motion ~~of a party in interest~~, the court may order the examination of any entity. |
| (b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan. | **(b) Scope of the Examination.**<br>(1) ***In General.*** The examination of an entity under this Rule 2004, or of a debtor under § 343, may relate only to:<br>(A) the debtor's acts, conduct, or property;<br>(B) the debtor's liabilities and financial condition;<br>(C) any matter that may affect the administration of the debtor's estate; or<br>(D) the debtor's right to a discharge.<br>(2) ***Other Topics in Certain Cases.*** In a Chapter 12 or 13 case, or in a Chapter 11 case that is not a railroad reorganization, the examination may also relate to:<br>(A) the operation of any business and the desirability of its continuing;<br>(B) the source of any money or property the debtor acquired or will acquire for the purpose of consummating a plan and the consideration given or offered; and<br>(C) any other matter relevant to the case or to formulating a plan. |
| (c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS OR ELECTRONICALLY STORED INFORMATION. The attendance of an entity for examination and for the production of documents or electronically stored information, | **(c) Compelling Attendance and the Production of Documents or Electronically Stored Information.** Regardless of the district where the examination will be conducted, an entity may be compelled under Rule 9016 to attend and produce documents or electronically stored information. An |

| ORIGINAL | REVISION |
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| whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court where the case is pending if the attorney is admitted to practice in that court. | attorney may issue and sign a subpoena on behalf of the court where the case is pending if the attorney is admitted to practice in that court. |
| (d) TIME AND PLACE OF EXAMINATION OF DEBTOR. The court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending. | **(d) Time and Place to Examine the Debtor.** The court may, for cause and on terms it may impose, order the debtor to be examined under this Rule 2004 at any designated time and place, in or outside the district. |
| (e) MILEAGE. An entity other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered. If the debtor resides more than 100 miles from the place of examination when required to appear for an examination under this rule, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under the Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser. | **(e) Witness Fees and Mileage.**<br>(1) ***For a Nondebtor Witness.*** An entity, except the debtor, may be required to attend as a witness only if the lawful mileage and witness fee for 1 day's attendance are first tendered.<br>(2) ***For a Debtor Witness.*** A debtor who is required to appear for examination more than 100 miles from the debtor's residence must be tendered a mileage fee. The fee need cover only the distance exceeding 100 miles from the nearer of where the debtor resides:<br>(A) when the first petition was filed; or<br>(B) when the examination takes place. |

**Committee Note**

The language of Rule 2004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2005. Apprehension and Removal of Debtor to Compel Attendance for Examination** | **Rule 2005. Apprehending and Removing a Debtor for Examination** |
| (a) ORDER TO COMPEL ATTENDANCE FOR EXAMINATION. On motion of any party in interest supported by an affidavit alleging (1) that the examination of the debtor is necessary for the proper administration of the estate and that there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid examination, or (2) that the debtor has evaded service of a subpoena or of an order to attend for examination, or (3) that the debtor has willfully disobeyed a subpoena or order to attend for examination, duly served, the court may issue to the marshal, or some other officer authorized by law, an order directing the officer to bring the debtor before the court without unnecessary delay. If, after hearing, the court finds the allegations to be true, the court shall thereupon cause the debtor to be examined forthwith. If necessary, the court shall fix conditions for further examination and for the debtor's obedience to all orders made in reference thereto. | **(a) Compelling the Debtor's Attendance.**<br>(1) ***Order to Apprehend the Debtor.*** ~~On motion of a party in interest~~On a party in interest's motion~~,~~ supported by an affidavit, the court may order a marshal, or other official authorized by law, to bring the debtor before the court without unnecessary delay. The affidavit must allege that:<br>(A) the examination is necessary to properly administer the estate, and there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid the examination;<br>(B) the debtor has evaded service of a subpoena or an order to attend the examination; or<br>(C) the debtor has willfully disobeyed a duly served subpoena or order to attend the examination.<br>(2) ***Ordering an Immediate Examination.*** If, after hearing, the court finds the allegations to be true, it must:<br>(A) order the immediate examination of the debtor; and<br>(B) if necessary, set conditions for further examination and for the debtor's obedience to any further order regarding it. |
| (b) REMOVAL. Whenever any order to bring the debtor before the court is issued under this rule and the debtor is found in a district other than that of the court issuing the order, the debtor may be taken into custody under the order | **(b) Removing a Debtor to Another District for Examination.**<br>(1) ***In General.*** When an order is issued under (a)(1) and the debtor is found in another district, the debtor may be |

| ORIGINAL | REVISION |
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| and removed in accordance with the following rules:<br><br>(1) If the debtor is taken into custody under the order at a place less than 100 miles from the place of issue of the order, the debtor shall be brought forthwith before the court that issued the order.<br><br>(2) If the debtor is taken into custody under the order at a place 100 miles or more from the place of issue of the order, the debtor shall be brought without unnecessary delay before the nearest available United States magistrate judge, bankruptcy judge, or district judge. If, after hearing, the magistrate judge, bankruptcy judge, or district judge finds that an order has issued under this rule and that the person in custody is the debtor, or if the person in custody waives a hearing, the magistrate judge, bankruptcy judge, or district judge shall order removal, and the person in custody shall be released on conditions ensuring prompt appearance before the court that issued the order to compel the attendance.<br><br>(c) CONDITIONS OF RELEASE. In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the relevant provisions and policies of title 18 U.S.C. § 3142. | taken into custody and removed as provided in (2) and (3).<br><br>(2) ***Within 100 Miles.*** A debtor who is taken into custody less than 100 miles from where the order was issued must be brought promptly before the court that issued the order.<br><br>(3) ***At 100 Miles or More.*** A debtor who is taken into custody 100 miles or more from where the order was issued must be brought without unnecessary delay for a hearing before the nearest available United States magistrate judge, bankruptcy judge, or district judge. If, after hearing, the judge finds that the person in custody is the debtor and is subject to an order under (a)(1), or if the person waives a hearing, the judge must order removal, and must release the person in custody on conditions ensuring prompt appearance before the court that issued the order compelling attendance.<br><br>(4) ***Conditions of Release.*** The relevant provisions and policies of 18 U.S.C. § 3142 govern the court's determination of what conditions will reasonably assure attendance and obedience under this Rule 2005. |

**Committee Note**

The language of Rule 2005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2006. Solicitation and Voting of Proxies in Chapter 7 Liquidation Cases** | **Rule 2006. Soliciting and Voting Proxies in a Chapter 7 Case** |
| (a) APPLICABILITY. This rule applies only in a liquidation case pending under chapter 7 of the Code. | **(a) Applicability.** This Rule 2006 applies only in a Chapter 7 case. |
| (b) DEFINITIONS.<br><br>(1) *Proxy.* A proxy is a written power of attorney authorizing any entity to vote the claim or otherwise act as the owner's attorney in fact in connection with the administration of the estate.<br><br>(2) *Solicitation of Proxy.* The solicitation of a proxy is any communication, other than one from an attorney to a regular client who owns a claim or from an attorney to the owner of a claim who has requested the attorney to represent the owner, by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of the filing of a petition by or against the debtor. | **(b) Definitions.**<br><br>(1) ***Proxy.*** A "proxy" is a written power of attorney that authorizes an entity to vote the claim or otherwise act as the holder's attorney-in-fact in connection with the administration of the estate.<br><br>(2) ***Soliciting a Proxy.*** "Soliciting a proxy" means any communication by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of a Chapter 7 petition filed by or against the debtor. But such a communication is not considered soliciting a proxy if it comes from an attorney to a claim owner who is a regular client or who has requested the attorney's representation. |
| (c) AUTHORIZED SOLICITATION.<br><br>(1) A proxy may be solicited only by (A) a creditor owning an allowable unsecured claim against the estate on the date of the filing of the petition; (B) a committee elected pursuant to § 705 of the Code; (C) a committee of creditors selected by a majority in number and amount of claims of creditors (i) whose claims are not contingent or unliquidated, (ii) who are not disqualified from voting under § 702(a) of the Code and (iii) who were present or represented at a meeting of which all creditors having claims of over $500 or the 100 creditors having the largest claims had at least seven days' notice in writing and of which meeting written minutes were kept and are available | **(c) Who May Solicit a Proxy.** A proxy may be solicited only in writing and only by:<br><br>(1) a creditor that, on the date the petition was filed, held an allowable unsecured claim against the estate;<br><br>(2) a committee elected under § 705;<br><br>(3) a committee elected by creditors that hold a majority of claims in number and in total amount and that:<br><br>(A) have claims that are not contingent or unliquidated;<br><br>(B) are not disqualified from voting under § 702(a); and<br><br>(C) were present or represented at a creditors' meeting ~~of which~~where: |

| ORIGINAL | REVISION |
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| reporting the names of the creditors present or represented and voting and the amounts of their claims; or (D) a bona fide trade or credit association, but such association may solicit only creditors who were its members or subscribers in good standing and had allowable unsecured claims on the date of the filing of the petition.<br><br>(2) A proxy may be solicited only in writing. | (i) all creditors with claims over $500—or the 100 creditors with the largest claims—had at least 7 days' written notice; and<br><br>(ii) written minutes are available that report the voting creditors' names and the amounts of their claims; or<br><br>(4) a bona fide trade or credit association, which may solicit only creditors who, on the petition date:<br><br>(A) were its members or subscribers in good standing; and<br><br>(B) held allowable unsecured claims. |
| (d) SOLICITATION NOT AUTHORIZED. This rule does not permit solicitation (1) in any interest other than that of general creditors; (2) by or on behalf of any custodian; (3) by the interim trustee or by or on behalf of any entity not qualified to vote under § 702(a) of the Code; (4) by or on behalf of an attorney at law; or (5) by or on behalf of a transferee of a claim for collection only. | **(d) When Soliciting a Proxy Is Not Permitted.** This Rule 2006 does not permit soliciting a proxy:<br><br>(1) for any interest except that of a general creditor;<br><br>(2) by the interim trustee; or<br><br>(3) by or on behalf of:<br><br>(A) a custodian;<br><br>(B) any entity not qualified to vote under § 702(a);<br><br>(C) an attorney-at-law; or<br><br>(D) a transferee holding a claim for collection purposes only. |
| (e) DATA REQUIRED FROM HOLDERS OF MULTIPLE PROXIES. At any time before the voting commences at any meeting of creditors pursuant to § 341(a) of the Code, or at any other time as the court may direct, a holder of two or more proxies shall file and transmit to the United States trustee a verified list of the proxies to be voted and a verified | **(e) Duties of Holders of Multiple Proxies.** Before voting begins at any meeting of creditors under § 341(a)—or at any other time the court orders—a holder of 2 or more proxies must file and send to the United States trustee a verified list of the proxies to be voted and a verified statement of the pertinent facts and circumstances regarding each proxy's execution and delivery. The statement must include: |

| ORIGINAL | REVISION |
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| statement of the pertinent facts and circumstances in connection with the execution and delivery of each proxy, including:<br><br>(1) a copy of the solicitation;<br><br>(2) identification of the solicitor, the forwarder, if the forwarder is neither the solicitor nor the owner of the claim, and the proxyholder, including their connections with the debtor and with each other. If the solicitor, forwarder, or proxyholder is an association, there shall also be included a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were members or subscribers in good standing and had allowable unsecured claims on the date of the filing of the petition. If the solicitor, forwarder, or proxyholder is a committee of creditors, the statement shall also set forth the date and place the committee was organized, that the committee was organized in accordance with clause (B) or (C) of paragraph (c)(1) of this rule, the members of the committee, the amounts of their claims, when the claims were acquired, the amounts paid therefor, and the extent to which the claims of the committee members are secured or entitled to priority;<br><br>(3) a statement that no consideration has been paid or promised by the proxyholder for the proxy;<br><br>(4) a statement as to whether there is any agreement and, if so, the particulars thereof, between the proxyholder and any other entity for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any entity, other than a member or regular associate of the proxyholder's law firm, | (1) a copy of the solicitation;<br><br>(2) an identification of the solicitor, the forwarder (if the forwarder is neither the solicitor nor the claim owner), and the proxyholder—including their connections with the debtor and with each other—together with:<br><br>(A) if the solicitor, forwarder, or proxyholder is an association, a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were, on the petition date, members or subscribers in good standing with allowable unsecured claims; and<br><br>(B) if the solicitor, forwarder, or proxyholder is a committee of creditors, a list stating:<br><br>(i) the date and place the committee was organized;<br><br>(ii) that the committee was organized under (c)(2) or (c)(3);<br><br>(iii) the committee's members;<br><br>(iv) the amounts of their claims;<br><br>(v) when the claims were acquired;<br><br>(vi) the amounts paid for the claims; and<br><br>(vii) the extent to which the committee members' claims are secured or entitled to priority;<br><br>(3) a statement that the proxyholder has neither paid nor promised any consideration for the proxy;<br><br>(4) a statement addressing whether there is any agreement—and, if so, giving its |

| ORIGINAL | REVISION |
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| which may be allowed the trustee or any entity for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;<br><br>(5) if the proxy was solicited by an entity other than the proxyholder, or forwarded to the holder by an entity who is neither a solicitor of the proxy nor the owner of the claim, a statement signed and verified by the solicitor or forwarder that no consideration has been paid or promised for the proxy, and whether there is any agreement, and, if so, the particulars thereof, between the solicitor or forwarder and any other entity for the payment of any consideration in connection with voting the proxy, or for sharing compensation with any entity other than a member or regular associate of the solicitor's or forwarder's law firm which may be allowed the trustee or any entity for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;<br><br>(6) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member as to the amount and source of any consideration paid or to be paid to such member in connection with the case other than by way of dividend on the member's claim. | particulars—between the proxyholder and any other entity to:<br><br>(A) pay any consideration related to voting the proxy; or<br><br>(B) ~~or to~~ share with any entity (except a member or regular associate of the proxyholder's law firm) compensation that may be allowed to:<br><br>(i) the trustee or any entity for services rendered in the case; or<br><br>(ii) any person employed by the estate;<br><br>(5) if the proxy was solicited by an entity other than the proxyholder—or forwarded to the holder by an entity who is neither a solicitor of the proxy nor the claim owner—a statement signed and verified by the solicitor or forwarder:<br><br>(A) confirming that no consideration has been paid or promised for the proxy;<br><br>(B) addressing whether there is any agreement—and, if so, giving its particulars—between the solicitor or forwarder and any other entity to pay any consideration related to voting the proxy or to share with any entity (except a member or regular associate of the solicitor's or forwarder's law firm) compensation that may be allowed to:<br><br>(i) the trustee or any entity for services rendered in the case; or<br><br>(ii) any person employed by the estate; and<br><br>(6) if the solicitor, forwarder, or |

| ORIGINAL | REVISION |
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| | proxyholder is a committee, a statement signed and verified by each member disclosing the amount and source of any consideration paid or to be paid to the member in connection with the case, except a dividend on the member's claim. |
| (f) ENFORCEMENT OF RESTRICTIONS ON SOLICITATION. On motion of any party in interest or on its own initiative, the court may determine whether there has been a failure to comply with the provisions of this rule or any other impropriety in connection with the solicitation or voting of a proxy. After notice and a hearing the court may reject any proxy for cause, vacate any order entered in consequence of the voting of any proxy which should have been rejected, or take any other appropriate action. | **(f) Enforcing Restrictions on Soliciting Proxies.** On ~~motion of a party in interest~~a party in interest's motion or on its own, the court may determine whether there has been a failure to comply with this Rule 2006 or any other impropriety related to soliciting or voting a proxy. After notice and a hearing, the court may:<br>(1) reject a proxy for cause;<br>(2) vacate an order entered because a proxy was voted that should have been rejected; or<br>(3) take other appropriate action. |

**Committee Note**

The language of Rule 2006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case** | **Rule 2007. Reviewing the Appointment of a Creditors' Committee Organized Before a Chapter 9 or 11 Case Is Commenced** |
| (a) MOTION TO REVIEW APPOINTMENT. If a committee appointed by the United States trustee pursuant to § 1102(a) of the Code consists of the members of a committee organized by creditors before the commencement of a chapter 9 or chapter 11 case, on motion of a party in interest and after a hearing on notice to the United States trustee and other entities as the court may direct, the court may determine whether the appointment of the committee satisfies the requirements of § 1102(b)(1) of the Code. | **(a) Motion to Review the Appointment.** If, in a Chapter 9 or 11 case, a committee appointed by the United States trustee under § 1102(a) consists of the members of a committee organized by creditors before the case commenced, the court may determine whether the committee's appointment satisfies the requirements of § 1102(b)(1). The court may do so on a party in interest's motion and after a hearing on notice to the United States trustee and other entities as the court orders. |
| (b) SELECTION OF MEMBERS OF COMMITTEE. The court may find that a committee organized by unsecured creditors before the commencement of a chapter 9 or chapter 11 case was fairly chosen if:<br><br>(1) it was selected by a majority in number and amount of claims of unsecured creditors who may vote under § 702(a) of the Code and were present in person or represented at a meeting of which all creditors having unsecured claims of over $1,000 or the 100 unsecured creditors having the largest claims had at least seven days' notice in writing, and of which meeting written minutes reporting the names of the creditors present or represented and voting and the amounts of their claims were kept and are available for inspection;<br><br>(2) all proxies voted at the meeting for the elected committee were solicited pursuant to Rule 2006 and the lists and statements required by | **(b) Determining Whether the Committee Was Fairly Chosen.** The court may find that the committee was fairly chosen if:<br><br>(1) it was selected by a majority in number and amount of claims of unsecured creditors who are entitled to vote under § 702(a) and who were present or represented at a meeting ~~of which~~where:<br><br>(A) all creditors with unsecured claims of over $1,000~~,~~ or the 100 unsecured creditors with the largest claims~~,~~ had at least 7 days' written notice; and<br><br>(B) written minutes ~~are available for inspection~~ reporting the voting creditors' names and the amounts of their claims are available for inspection;<br><br>(2) all proxies voted at the meeting were solicited under Rule 2006;<br><br>(3) the lists and statements required by Rule 2006(e) have been sent to the |

| ORIGINAL | REVISION |
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| subdivision (e) thereof have been transmitted to the United States trustee; and<br>(3) the organization of the committee was in all other respects fair and proper. | United States trustee; and<br>(4) the committee's organization was in all other respects fair and proper. |
| (c) FAILURE TO COMPLY WITH REQUIREMENTS FOR APPOINTMENT. After a hearing on notice pursuant to subdivision (a) of this rule, the court shall direct the United States trustee to vacate the appointment of the committee and may order other appropriate action if the court finds that such appointment failed to satisfy the requirements of § 1102(b)(1) of the Code. | **(c) Failure to Comply with Appointment Requirements.** If, after a hearing on notice under (a), the court finds that a committee appointment fails to satisfy the requirements of § 1102(b)(1), it:<br>(1) must order the United States trustee to vacate the appointment; and<br>(2) may order other appropriate action. |

**Committee Note**

The language of Rule 2007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2007.1. Appointment of Trustee or Examiner in a Chapter 11 Reorganization Case** | **Rule 2007.1. Appointing a Trustee or Examiner in a Chapter 11 Case** |
| (a) ORDER TO APPOINT TRUSTEE OR EXAMINER. In a chapter 11 reorganization case, a motion for an order to appoint a trustee or an examiner under § 1104(a) or § 1104(c) of the Code shall be made in accordance with Rule 9014. | **(a) In General.** In a Chapter 11 case, a motion to appoint a trustee or examiner under § 1104(a) or (c) must be made in accordance with Rule 9014. |
| (b) ELECTION OF TRUSTEE.<br>(1) *Request for an Election.* A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Rule 5005 within the time prescribed by § 1104(b) of the Code. Pending court approval of the person elected, any person appointed by the United States trustee under § 1104(d) and approved in accordance with subdivision (c) of this rule shall serve as trustee.<br>(2) *Manner of Election and Notice.* An election of a trustee under § 1104(b) of the Code shall be conducted in the manner provided in Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under § 1104(b) shall be given as provided in Rule 2002. The United States trustee shall preside at the meeting. A proxy for the purpose of voting in the election may be solicited only by a committee of creditors appointed under § 1102 of the Code or by any other party entitled to solicit a proxy pursuant to Rule 2006.<br>(3) *Report of Election and Resolution of Disputes.*<br>(A) *Report of Undisputed Election.* If no dispute arises out of the | **(b) Requesting the United States Trustee to Convene a Meeting of Creditors to Elect a Trustee.**<br>(1) ***In General.*** A request to the United States trustee to convene a meeting of creditors to elect a trustee must be filed and sent to the United States trustee in accordance with Rule 5005 and within the time prescribed by § 1104(b). Pending court approval of the person elected, any person appointed by the United States trustee under § 1104(d) and approved under (c) below must serve as trustee.<br>(2) ***Notice and Manner of Conducting the Election.*** A trustee's election under § 1104(b) must be conducted as Rules 2003(b)(3) and 2006 provide, and notice of the meeting of creditors must be given as Rule 2002 provides. The United States trustee must preside at the meeting. A proxy to vote in the election may be solicited only by a creditors' committee appointed under § 1102 or by another party entitled to solicit a proxy under Rule 2006.<br>(3) ***Reporting Election Results; Resolving Disputes.***<br>(A) *Undisputed Election.* If the election is undisputed, the United States trustee must promptly file a report certifying the election, including |

| ORIGINAL | REVISION |
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| election, the United States trustee shall promptly file a report certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report shall be accompanied by a verified statement of the person elected setting forth that person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.<br><br>(B) *Dispute Arising Out of an Election.* If a dispute arises out of an election, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report shall be accompanied by a verified statement by each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code. | the name and address of the person elected and a statement that the election is undisputed. The report must be accompanied by a verified statement of the person elected setting forth that person's connections with:<br><br>• the debtor;<br>• creditors;<br>• any other party in interest;<br>• their respective attorneys and accountants;<br>• the United States trustee; or<br>• any person employed in the United States trustee's office.<br><br>(B) *Disputed Election.* If the election is disputed, the United States trustee must promptly file a report stating that the election is disputed, informing the court of the nature of the dispute~~,~~ and listing the name and address of any candidate elected under any alternative presented by the dispute. The report must be accompanied by a verified statement by each ~~such~~ candidate, setting forth the candidate's connections with any entity listed in (A)(i)–(vi). No later than the date on which the report ~~of the disputed election~~ is filed, the United States trustee must mail a copy ~~of the report~~ and each verified statement to:<br><br>(i) any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report; and |

| ORIGINAL | REVISION |
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| | (ii) any committee appointed under § 1102. |
| (c) APPROVAL OF APPOINTMENT. An order approving the appointment of a trustee or an examiner under § 1104(d) of the Code shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, or persons employed in the office of the United States trustee. The application shall state the names of the parties in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. | **(c) Approving an Appointment.** On application of the United States trustee, the court may approve a trustee's or examiner's appointment under § 1104(d). The application must:<br>(1) name the person appointed and state, to the best of the applicant's knowledge, all that person's connections with any entity listed in (b)(3)(A)(i)–(vi);<br>(2) state the names of the parties in interest with whom the United States trustee consulted about the appointment; and<br>(3) be accompanied by a verified statement of the person appointed setting forth that person's connections with any entity listed in (b)(3)(A)(i)–(vi). |

**Committee Note**

The language of Rule 2007.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case** | **Rule 2007.2. Appointing a Patient-Care Ombudsman in a Health Care Business Case** |
| (a) ORDER TO APPOINT PATIENT CARE OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed no later than 21 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary under the specific circumstances of the case for the protection of patients. | **(a) In General.** In a Chapter 7, 9, or 11 case in which the debtor is a health care business, the court must order the appointment of a patient-care ombudsman under § 333—unless the court, on motion of the United States trustee or a party in interest, finds that appointing ~~a patient-care ombudsman in that case~~one is not necessary to protect patients. The motion must be filed within 21 days after the case was commenced or at another time set by the court. |
| (b) MOTION FOR ORDER TO APPOINT OMBUDSMAN. If the court has found that the appointment of an ombudsman is not necessary, or has terminated the appointment, the court, on motion of the United States trustee or a party in interest, may order the appointment at a later time if it finds that the appointment has become necessary to protect patients. | **(b) ~~Deferred~~ Deferring the Appointment.** If the court has found that appointing an ombudsman is unnecessary, or has terminated the appointment, the court may, on motion of the United States trustee or a party in interest, order an appointment later if it finds that an appointment has become necessary to protect patients. |
| (c) NOTICE OF APPOINTMENT. If a patient care ombudsman is appointed under § 333, the United States trustee shall promptly file a notice of the appointment, including the name and address of the person appointed. Unless the person appointed is a State Long-Term Care Ombudsman, the notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, patients, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office | **(c) Giving Notice.** When a patient-care ombudsman is appointed under § 333, the United States trustee must promptly file a notice of the appointment, including the name and address of the person appointed. Unless that person is a State Long-Term-Care Ombudsman, the notice must be accompanied by a verified statement of the person appointed setting forth that person's connections with:<br>(1) the debtor;<br>(2) creditors;<br>(3) patients; |

| ORIGINAL | REVISION |
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| of the United States trustee. | (4) any other party in interest;<br>(5) ~~their respective~~the attorneys and accountants of those in (1)–(4);<br>(6) the United States trustee; or<br>(7) any person employed in the United States trustee's office. |
| (d) TERMINATION OF APPOINTMENT. On motion of the United States trustee or a party in interest, the court may terminate the appointment of a patient care ombudsman if the court finds that the appointment is not necessary to protect patients. | **(d) Terminating an Appointment.** On motion of the United States trustee or a party in interest, the court may terminate a patient-care ombudsman's appointment that it finds to be unnecessary to protect patients. |
| (e) MOTION. A motion under this rule shall be governed by Rule 9014. The motion shall be transmitted to the United States trustee and served on: the debtor; the trustee; any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and such other entities as the court may direct. | **(e) Procedure.** Rule 9014 governs any motion under this Rule 2007.2. The motion must be sent to the United States trustee and served on:<br>• the debtor;<br>• the trustee;<br>• any committee elected under § 705 or appointed under § 1102, or its authorized agent; and<br>• any other entity as the court orders.<br>In a Chapter 9 or 11 case, if no committee of unsecured creditors has been appointed under § 1102, the motion must also be served on the creditors included on the list filed under Rule 1007(d). |

**Committee Note**

The language of Rule 2007.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2008. Notice to Trustee of Selection** | **Rule 2008. Notice to the Person Selected as Trustee** |
| The United States trustee shall immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond. A trustee that has filed a blanket bond pursuant to Rule 2010 and has been selected as trustee in a chapter 7, chapter 12, or chapter 13 case that does not notify the court and the United States trustee in writing of rejection of the office within seven days after receipt of notice of selection shall be deemed to have accepted the office. Any other person selected as trustee shall notify the court and the United States trustee in writing of acceptance of the office within seven days after receipt of notice of selection or shall be deemed to have rejected the office. | **(a) Giving Notice.** The United States trustee must immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond.<br><br>**(b) Accepting the Position of Trustee.**<br><br>(1) ***Trustee Who Has Filed a Blanket Bond.*** A trustee selected in a Chapter 7, 12, or 13 case who has filed a blanket bond under Rule 2010 may reject the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the trustee will be ~~deemed~~ considered to have accepted the office.<br><br>(2) ***Other Trustees.*** Any other person selected as trustee may accept the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the person will be ~~deemed~~ considered to have rejected the office. |

**Committee Note**

The language of Rule 2008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2009. Trustees for Estates When Joint Administration Ordered** | **Rule 2009. Trustees for Jointly Administered Estates** |
| (a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code. | **(a) Creditors' Right to Elect a Single Trustee.** Except in a case under Subchapter V of Chapter 7 or Subchapter V of Chapter 11, if the court orders that 2 or more estates be jointly administered under Rule 1015(b), the creditors may elect a single trustee for those estates. |
| (b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code. | **(b) Creditors' Right to Elect a Separate Trustee.** Except in a case under Subchapter V of Chapter 7 or Subchapter V of Chapter 11, any debtor's creditors may elect a separate trustee for the debtor's estate under § 702—even if the court orders joint administration under Rule 1015(b). |
| (c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.<br><br>(1) *Chapter 7 Liquidation Cases.* Except in a case governed by subchapter V of chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.<br><br>(2) *Chapter 11 Reorganization Cases.* If the appointment of a trustee is ordered or is required by the Code, the United States trustee may appoint one or more trustees for estates being jointly administered in chapter 11 cases.<br><br>(3) *Chapter 12 Family Farmer's Debt Adjustment Cases.* The United States trustee may appoint one or more trustees for estates being jointly administered in chapter 12 cases. | **(c) United States Trustee's Right to Appoint Interim Trustees in Cases with Jointly Administered Estates.**<br><br>(1) ***Chapter 7.*** Except in a case under Subchapter V of Chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in Chapter 7.<br><br>(2) ***Chapter 11.*** If the court orders or the Code requires the appointment of a trustee, the United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 11.<br><br>(3) ***Chapter 12 or 13.*** The United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 12 or 13. |

| ORIGINAL | REVISION |
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| (4) *Chapter 13 Individual's Debt Adjustment Cases*. The United States trustee may appoint one or more trustees for estates being jointly administered in chapter 13 cases. | |
| (d) POTENTIAL CONFLICTS OF INTEREST. On a showing that creditors or equity security holders of the different estates will be prejudiced by conflicts of interest of a common trustee who has been elected or appointed, the court shall order the selection of separate trustees for estates being jointly administered. | **(d) Conflicts of Interest.** On a showing that a common trustee's conflicts of interest will prejudice creditors or equity security holders of jointly administered estates, the court must order the selection of separate trustees for the estates. |
| (e) SEPARATE ACCOUNTS. The trustee or trustees of estates being jointly administered shall keep separate accounts of the property and distribution of each estate. | **(e) Keeping Separate Accounts.** A trustee of jointly administered estates must keep separate accounts of each estate's property and distribution. |

**Committee Note**

The language of Rule 2009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 2010. Qualification by Trustee; Proceeding on Bond** | **Rule 2010. Blanket Bond; Proceedings on the Bond** |
| (a) BLANKET BOND. The United States trustee may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by the trustee or trustees to cover (1) a person who qualifies as trustee in a number of cases, and (2) a number of trustees each of whom qualifies in a different case. | **(a) Authorizing a Blanket Bond.** The United States trustee may authorize a blanket bond in the United States' favor~~,~~ conditioned on the faithful performance of a trustee's official duties~~,~~ to cover:<br>(1) a person who qualifies as trustee in multiple cases; or<br>(2) multiple trustees who ~~each qualifies~~qualify in a different case. |
| (b) PROCEEDING ON BOND. A proceeding on the trustee's bond may be brought by any party in interest in the name of the United States for the use of the entity injured by the breach of the condition. | **(b) Proceedings on the Bond.** A party in interest may bring a proceeding in the United States' ~~name of the United States~~name on a trustee's bond for the use of the entity injured by the trustee's breach of the condition. |

**Committee Note**

The language of Rule 2010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 2011. Evidence of Debtor in Possession or Qualification of Trustee** | **Rule 2011. Evidence That a Debtor Is a Debtor in Possession or That a Trustee Has Qualified** |
| (a) Whenever evidence is required that a debtor is a debtor in possession or that a trustee has qualified, the clerk may so certify and the certificate shall constitute conclusive evidence of that fact. | **(a) The Clerk's Certification.** Whenever evidence is required to prove that a debtor is a debtor in possession or that a trustee has qualified, the clerk may ~~issue a certificate to that effect~~so certify. The certification constitutes conclusive evidence of that fact. |
| (b) If a person elected or appointed as trustee does not qualify within the time prescribed by § 322(a) of the Code, the clerk shall so notify the court and the United States trustee. | **(b) Trustee's Failure to Qualify.** If a person elected or appointed as trustee does not qualify within the time prescribed by § 322(a), the clerk must so notify the court and the United States trustee. |

**Committee Note**

The language of Rule 2011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2012. Substitution of Trustee or Successor Trustee; Accounting** | **Rule 2012. Substituting a Trustee in a Chapter 11 or 12 Case; Successor Trustee in a Pending Proceeding** |
| (a) TRUSTEE. If a trustee is appointed in a chapter 11 case (other than under subchapter V), or the debtor is removed as debtor in possession in a chapter 12 case or in a case under subchapter V of chapter 11, the trustee is substituted automatically for the debtor in possession as a party in any pending action, proceeding, or matter. | **(a) Substituting a Trustee.** ~~If a trustee is appointed in a Chapter 11 case or the debtor is removed as debtor in possession in a Chapter 12 case, t~~The trustee is automatically substituted for the debtor in possession as a party in any pending action, proceeding, or matter if:<br>(1) the trustee is appointed in a Chapter 11 case (other than under Subchapter V); or<br>(2) the debtor is removed as debtor in possession in a Chapter 12 case or in a case under Subchapter V of Chapter 11. |
| (b) SUCCESSOR TRUSTEE. When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a case under the Code (1) the successor is automatically substituted as a party in any pending action, proceeding, or matter; and (2) the successor trustee shall prepare, file, and transmit to the United States trustee an accounting of the prior administration of the estate. | **(b) Successor Trustee.** ~~When~~ If a trustee dies, resigns, is removed, or otherwise ceases to hold office while a bankruptcy case is pending, the successor trustee is automatically substituted as a party in any pending action, proceeding, or matter. The successor trustee must prepare, file, and send to the United States trustee an accounting of the estate's prior administration. |

**Committee Note**

The language of Rule 2012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2013. Public Record of Compensation Awarded to Trustees, Examiners, and Professionals** | **Rule 2013. Keeping a Public Record of Compensation Awarded by the Court to Examiners, Trustees, and Professionals** |
| (a) RECORD TO BE KEPT. The clerk shall maintain a public record listing fees awarded by the court (1) to trustees and attorneys, accountants, appraisers, auctioneers and other professionals employed by trustees, and (2) to examiners. The record shall include the name and docket number of the case, the name of the individual or firm receiving the fee and the amount of the fee awarded. The record shall be maintained chronologically and shall be kept current and open to examination by the public without charge. "Trustees," as used in this rule, does not include debtors in possession. | **(a) In General.**<br>(1) ***Required Items.*** The clerk must keep a public record of fees the court awards to examiners and trustees, and to attorneys, accountants, appraisers, auctioneers, and other professionals that trustees employ. The record must:<br>(A) include the case name and ~~case~~ number, the name of the individual or firm receiving the fee, and the amount awarded~~.~~;<br>(B) ~~The record must~~ be maintained chronologically; and<br>(C) be kept current and open for public examination without charge.<br>(2) ***Meaning of "Trustee."*** ~~"Trustee," as~~As used in this ~~R~~rule ~~2013~~, "trustee" does not include a debtor in possession. |
| (b) SUMMARY OF RECORD. At the close of each annual period, the clerk shall prepare a summary of the public record by individual or firm name, to reflect total fees awarded during the preceding year. The summary shall be open to examination by the public without charge. The clerk shall transmit a copy of the summary to the United States trustee. | **(b) Annual Summary of the Record.** At the end of each year, the clerk must prepare a summary of the public record, by individual or firm name, showing the total fees awarded during the year. The summary must be open for public examination without charge. The clerk must send a copy of the summary to the United States trustee. |

**Committee Note**

The language of Rule 2013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2014. Employment of Professional Persons** | **Rule 2014. Employing Professionals** |
| (a) APPLICATION FOR AND ORDER OF EMPLOYMENT. An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. | **(a) Order Approving Employment; Application for Employment.**<br>(1) ***Order Approving Employment.*** The court may approve the employment of an attorney, accountant, appraiser, auctioneer, agent, or other professional under § 327, § 1103, or § 1114 only on the trustee's or committee's application.<br>(2) ***Application for Employment.*** The applicant must file the application and, except in a Chapter 9 case, must send a copy to the United States trustee. The application must state specific facts showing:<br>(A) the ~~necessity~~ need for the employment;<br>(B) the name of the person to be employed;<br>(C) the reasons for the selection;<br>(D) the professional services to be rendered;<br>(E) any proposed arrangement for compensation; and<br>(F) to the best of the applicant's knowledge, all the person's connections with:<br>• the debtor;<br>• creditors;<br>• any other party in interest;<br>• their respective attorneys and accountants;<br>• the United States trustee; and<br>• any person employed in the United States trustee's office. |

| ORIGINAL | REVISION |
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| | (3) ***Verified Statement of the Person to Be Employed.*** The application must be accompanied by a verified statement of the person to be employed, setting forth that person's connections with any entity listed in (2)(F). |
| (b) SERVICES RENDERED BY MEMBER OR ASSOCIATE OF FIRM OF ATTORNEYS OR ACCOUNTANTS. If, under the Code and this rule, a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant, or if a named attorney or accountant is employed, any partner, member, or regular associate of the partnership, corporation, or individual may act as attorney or accountant so employed, without further order of the court. | **(b) Services Rendered by a Member or Associate of a Law or Accounting Firm.** If a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant—or if a named attorney or accountant is employed—then any partner, member, or regular associate may act as so employed, without further court order. |

**Committee Note**

The language of Rule 2014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status** | **Rule 2015. Duty to Keep Records, Make Reports, and Give Notices** |
| (a) TRUSTEE OR DEBTOR IN POSSESSION. A trustee or debtor in possession shall:<br><br>(1) in a chapter 7 liquidation case and, if the court directs, in a chapter 11 reorganization case (other than under subchapter V), file and transmit to the United States trustee a complete inventory of the property of the debtor within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;<br><br>(2) keep a record of receipts and the disposition of money and property received;<br><br>(3) file the reports and summaries required by § 704(a)(8) of the Code, which shall include a statement, if payments are made to employees, of the amounts of deductions for all taxes required to be withheld or paid for and in behalf of employees and the place where these amounts are deposited;<br><br>(4) as soon as possible after the commencement of the case, give notice of the case to every entity known to be holding money or property subject to withdrawal or order of the debtor, including every bank, savings or building and loan association, public utility company, and landlord with whom the debtor has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the debtor, except that notice need not be given to any entity who has knowledge or has previously been notified of the case; | **(a) Duties of a Trustee or Debtor in Possession.** A trustee or debtor in possession must:<br><br>(1) in a Chapter 7 case and, if the court so orders, in a Chapter 11 case (other than under Subchapter V), file and send to the United States trustee a complete inventory of the debtor's property within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;<br><br>(2) keep a record of receipts and the disposition of money and property received;<br><br>(3) file:<br><br>(A) the reports and summaries required by § 704(a)(8); and<br><br>(B) if payments are made to employees, a statement of the amounts of deductions for all taxes required to be withheld or paid on the employees' behalf and the place where these funds are deposited;<br><br>(4) give notice of the case, as soon as possible after it commences, to the following entities, except those who know or have previously been notified of ~~the case~~it:<br><br>(A) every entity known to be holding money or property subject to the debtor's withdrawal or order, including every bank, savings- or building-and-loan association, public utility company, and |

| ORIGINAL | REVISION |
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| (5) in a chapter 11 reorganization case (other than under subchapter V), on or before the last day of the month after each calendar quarter during which there is a duty to pay fees under 28 U.S.C. § 1930(a)(6), file and transmit to the United States trustee a statement of any disbursements made during that quarter and of any fees payable under 28 U.S.C. § 1930(a)(6) for that quarter; and<br><br>(6) in a chapter 11 small business case, unless the court, for cause, sets another reporting interval, file and transmit to the United States trustee for each calendar month after the order for relief, on the appropriate Official Form, the report required by § 308. If the order for relief is within the first 15 days of a calendar month, a report shall be filed for the portion of the month that follows the order for relief. If the order for relief is after the 15th day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month. Each report shall be filed no later than 21 days after the last day of the calendar month following the month covered by the report. The obligation to file reports under this subparagraph terminates on the effective date of the plan, or conversion or dismissal of the case. | ~~Landlord~~ landlord with whom the debtor has a deposit; and<br><br>(B) every insurance company that has issued a policy with a cash-surrender value payable to the debtor;<br><br>(5) in a Chapter 11 case (other than under Subchapter V), on or before the last day of the month after each calendar quarter during which fees must be paid under 28 U.S.C. § 1930(a)(6), file and send to the United States trustee a statement of those fees and any disbursements made during that quarter; and<br><br>(6) in a Chapter 11 small business case, unless the court, for cause, sets a different schedule, file and send to the United States trustee a report under § 308, using Form 425C, for each calendar month after the order for relief~~,~~ ~~on~~ with the following ~~schedule~~adjustments:<br><br>• ~~If~~ if the order for relief is within the first 15 days of a calendar month, the report must be filed for the rest of that month~~.~~; or<br><br>• ~~If~~ if the order for relief is after the 15th, the information for the rest of that month must be included in the report for the next calendar month.<br><br>Each report must be filed within 21 days after the last day of the month following the month that the report covers. The obligation to file reports ends on the date that the plan becomes effective or the case is converted or dismissed. |

| ORIGINAL | REVISION |
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| (b) TRUSTEE, DEBTOR IN POSSESSION, AND DEBTOR IN A CASE UNDER SUBCHAPTER V OF CHAPTER 11. In a case under subchapter V of chapter 11, the debtor in possession shall perform the duties prescribed in (a)(2)–(4) and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the debtor's property within the time fixed by the court. If the debtor is removed as debtor in possession, the trustee shall perform the duties of the debtor in possession prescribed in this subdivision (b). The debtor shall perform the duties prescribed in (a)(6). | **(b) Trustee, Debtor in Possession, and Debtor in a Case Under Subchapter V of Chapter 11.** In a case under ~~subchapter~~ Subchapter V of ~~chapter~~ Chapter 11, the debtor in possession ~~shall~~ must perform the duties prescribed in (a)(2)–(4) and, if the court ~~directs~~orders, must file and send ~~shall file and transmit~~to the United States trustee a complete inventory of the debtor's property within the time ~~fixed by the court~~the court sets. If the debtor is removed as debtor in possession, the trustee ~~shall~~ must perform ~~the duties of the debtor in possession prescribed in this subdivision (b). these duties.~~ these duties. The debtor ~~shall~~ must perform the duties prescribed in (a)(6). |
| (c) CHAPTER 12 TRUSTEE AND DEBTOR IN POSSESSION. In a chapter 12 family farmer's debt adjustment case, the debtor in possession shall perform the duties prescribed in clauses (2)–(4) of subdivision (a) of this rule and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the property of the debtor within the time fixed by the court. If the debtor is removed as debtor in possession, the trustee shall perform the duties of the debtor in possession prescribed in this subdivision (c). | **(c) Duties of a Chapter 12 Trustee or Debtor in Possession.** In a Chapter 12 case, the debtor in possession must perform the duties prescribed in (a)(2)–(4) ~~And~~and, if the court orders, file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets. If the debtor is removed as debtor in possession, the trustee must perform these duties. |
| (d) CHAPTER 13 TRUSTEE AND DEBTOR.<br><br>(1) *Business Cases.* In a chapter 13 individual's debt adjustment case, when the debtor is engaged in business, the debtor shall perform the duties prescribed by clauses (2)–(4) of subdivision (a) of this rule and, if the court directs, shall file and transmit to the United States trustee a complete | **(d) Duties of a Chapter 13 Trustee and Debtor.**<br><br>(1) ***Chapter 13 Business Case.*** In a Chapter 13 case, a debtor engaged in business must:<br><br>(A) perform the duties prescribed by (a)(2)–(4); and<br><br>(B) if the court so orders, file and send to the United States trustee a |

| ORIGINAL | REVISION |
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| inventory of the property of the debtor within the time fixed by the court.<br><br>(2) *Nonbusiness Cases.* In a chapter 13 individual's debt adjustment case, when the debtor is not engaged in business, the trustee shall perform the duties prescribed by clause (2) of subdivision (a) of this rule. | complete inventory of the debtor's property within the time the court sets.<br><br>(2) ***Other Chapter 13 Case.*** In a Chapter 13 case in which the debtor is not engaged in business, the trustee must perform the duties prescribed by (a)(2). |
| (e) FOREIGN REPRESENTATIVE. In a case in which the court has granted recognition of a foreign proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 14 days after the date when the representative becomes aware of the subsequent information. | **(e) Duties of a Chapter 15 Foreign Representative.** In a Chapter 15 case in which the court has granted recognition of a foreign proceeding, the foreign representative must file any notice required under § 1518 within 14 days after becoming aware of the ~~subsequent~~ later information. |
| (f) TRANSMISSION OF REPORTS. In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of other reports shall be mailed to the creditors, equity security holders, and indenture trustees. The court may also direct the publication of summaries of any such reports. A copy of every report or summary mailed or published pursuant to this subdivision shall be transmitted to the United States trustee. | **(f) Making Reports Available in a Chapter 11 Case.** In a Chapter 11 case, the court may order that copies or summaries of annual reports and other reports be mailed to creditors, equity security holders, and indenture trustees. The court may also order that summaries of these reports be published. A copy of every such report or summary, whether mailed or published, must be sent to the United States trustee. |

**Committee Note**

The language of Rule 2015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2015.1. Patient Care Ombudsman** | **Rule 2015.1. Patient-Care Ombudsman** |
| (a) REPORTS. A patient care ombudsman, at least 14 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court, unless the court orders otherwise. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on: the debtor; the trustee; all patients; and any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and, if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense. | **(a) Notice of the Report.** Unless the court orders otherwise, a patient-care ombudsman must give at least 14 days' notice before making a report under § 333(b)(2).<br>(1) ***Recipients of the Notice.*** The notice must be sent to the United States trustee, posted conspicuously at the health-care facility that is the report's subject, and served on:<br>• the debtor;<br>• the trustee;<br>• all patients;<br>• any committee elected under § 705 or appointed under § 1102 or its authorized agent;<br>• in a Chapter 9 or 11 case, the creditors on the list filed under Rule 1007(d) if no committee of unsecured creditors has been appointed under § 1102; and<br>• any other entity as the court orders.<br>(2) ***Content~~s~~ of the Notice.*** The notice must state:<br>(A) the date and time when the report will be made;<br>(B) the manner in which it will be made; and<br>(C) if it will be ~~written~~in writing, the name, address, telephone number, email address, and any website of the person from whom a copy may be obtained at the debtor's expense. |

| ORIGINAL | REVISION |
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| (b) AUTHORIZATION TO REVIEW CONFIDENTIAL PATIENT RECORDS. A motion by a patient care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may not be commenced earlier than 14 days after service of the motion. | **(b) Authorization to Review Confidential Patient Records.**<br>(1) ***Motion to Review; Service.*** ~~A~~ Rule 9014 governs a patient-care ombudsman's motion under § 333(c) to review confidential patient records ~~is governed by Rule 9014~~. The motion must:<br>(A) be served on the patient;<br>(B) be served on any family member or other contact person whose name and address have been given to the trustee or the debtor in order to provide information about the patient's health care; and<br>(C) be sent to the United States trustee, subject to applicable nonbankruptcy law ~~relating~~ concerning~~to~~ patient privacy.<br>(2) ***Time for a Hearing.*** Unless the court orders otherwise, a hearing on the motion may not commence earlier than 14 days after the motion is served. |

**Committee Note**

The language of Rule 2015.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2015.2. Transfer of Patient in Health Care Business Case** | **Rule 2015.2. Transferring a Patient in a Health Care Business Case** |
| Unless the court orders otherwise, if the debtor is a health care business, the trustee may not transfer a patient to another health care business under § 704(a)(12) of the Code unless the trustee gives at least 14 days' notice of the transfer to the patient care ombudsman, if any, the patient, and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care. The notice is subject to applicable nonbankruptcy law relating to patient privacy. | Unless the court orders otherwise, if the debtor is a health care business, the trustee may transfer a patient to another health care business under § 704(a)(12) only if the trustee gives at least 14 days' notice of the transfer to:<br>• any patient-care ombudsman;<br>• the patient; and<br>• any family member or other contact person whose name and address have been given to the trustee or the debtor in order to provide information about the patient's health care.<br>The notice is subject to applicable nonbankruptcy law concerning patient privacy. |

**Committee Note**

The language of Rule 2015.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2015.3. Reports of Financial Information on Entities in Which a Chapter 11 Estate Holds a Controlling or Substantial Interest** | **Rule 2015.3. Reporting Financial Information About Entities in Which a Chapter 11 Estate Holds a Substantial or Controlling Interest** |
| (a) REPORTING REQUIREMENT. In a chapter 11 case, the trustee or debtor in possession shall file periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest. The reports shall be prepared as prescribed by the appropriate Official Form, and shall be based upon the most recent information reasonably available to the trustee or debtor in possession. | **(a) Reporting Requirement; Contents of the Report.** In a Chapter 11 case, the trustee or debtor in possession must file periodic financial reports of the value, operations, and profitability of each entity in which the estate holds a substantial or controlling interest—unless the entity is a publicly traded corporation or a debtor in a bankruptcy case. The reports must be prepared as prescribed by Form 426 and be based on the most recent information reasonably available to the filer. |
| (b) TIME FOR FILING; SERVICE. The first report required by this rule shall be filed no later than seven days before the first date set for the meeting of creditors under § 341 of the Code. Subsequent reports shall be filed no less frequently than every six months thereafter, until the effective date of a plan or the case is dismissed or converted. Copies of the report shall be served on the United States trustee, any committee appointed under § 1102 of the Code, and any other party in interest that has filed a request therefor. | **(b) Time to File; Service.** The first report must be filed at least 7 days before the first date set for the meeting of creditors under § 341. Later reports must be filed at least every 6 months, until the date a plan becomes effective or the case is converted or dismissed. A copy of each report must be served on:<br>• the United States trustee;<br>• any committee appointed under § 1102; and<br>• any other party in interest that has filed a request for it. |

| ORIGINAL | REVISION |
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| (c) PRESUMPTION OF SUBSTANTIAL OR CONTROLLING INTEREST; JUDICIAL DETERMINATION. For purposes of this rule, an entity of which the estate controls or owns at least a 20 percent interest, shall be presumed to be an entity in which the estate has a substantial or controlling interest. An entity in which the estate controls or owns less than a 20 percent interest shall be presumed not to be an entity in which the estate has a substantial or controlling interest. Upon motion, the entity, any holder of an interest therein, the United States trustee, or any other party in interest may seek to rebut either presumption, and the court shall, after notice and a hearing, determine whether the estate's interest in the entity is substantial or controlling. | **(c) Presumption of a Substantial or Controlling Interest.**<br>(1) ***When a Presumption Applies.*** Under this Rule 2015.3, the estate is presumed to have a substantial or controlling interest in an entity of which it controls or owns at least a 20% interest. Otherwise, the estate is presumed not to have a substantial or controlling interest.<br>(2) ***Rebutting the Presumption.*** The entity, any holder of an interest in it, the United States trustee, or any other party in interest may move to rebut either presumption. After notice and a hearing, the court must determine whether the estate's interest in the entity is substantial or controlling. |
| (d) MODIFICATION OF REPORTING REQUIREMENT. The court may, after notice and a hearing, vary the reporting requirement established by subdivision (a) of this rule for cause, including that the trustee or debtor in possession is not able, after a good faith effort, to comply with those reporting requirements, or that the information required by subdivision (a) is publicly available. | **(d) Modifying the Reporting Requirement.** After notice and a hearing, the court may vary the reporting requirements of (a) for cause, including that:<br>(1) the trustee or debtor in possession is not able, after a good-faith effort, to comply with them; or<br>(2) the required information is publicly available. |

| ORIGINAL | REVISION |
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| (e) NOTICE AND PROTECTIVE ORDERS. No later than 14 days before filing the first report required by this rule, the trustee or debtor in possession shall send notice to the entity in which the estate has a substantial or controlling interest, and to all holders—known to the trustee or debtor in possession—of an interest in that entity, that the trustee or debtor in possession expects to file and serve financial information relating to the entity in accordance with this rule. The entity in which the estate has a substantial or controlling interest, or a person holding an interest in that entity, may request protection of the information under § 107 of the Code. | **(e) Notice to Entities in Which the Estate has a Substantial or Controlling Interest; Protective Order.** At least 14 days before filing the first report under (a), the trustee or debtor in possession must send notice to every entity in which the estate has a substantial or controlling interest—and all known holders of an interest in the entity—that the trustee or debtor in possession expects to file and serve financial information about the entity in accordance with this Rule 2015.3. Any such entity, or person holding an interest in it, may request that the information be protected under § 107. |
| (f) EFFECT OF REQUEST. Unless the court orders otherwise, the pendency of a request under subdivisions (c), (d), or (e) of this rule shall not alter or stay the requirements of subdivision (a). | **(f) Effect of a Request.** Unless the court orders otherwise, a pending request under (c), (d), or (e) does not alter or stay the requirements of (a). |

**Committee Note**

The language of Rule 2015.3 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses** | **Rule 2016. Compensation for Services Rendered; Reimbursing Expenses** |
| (a) APPLICATION FOR COMPENSATION OR REIMBURSEMENT. An entity seeking interim or final compensation for services, or reimbursement of necessary expenses, from the estate shall file an application setting forth a detailed statement of (1) the services rendered, time expended and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement as to what payments have theretofore been made or promised to the applicant for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation previously received has been shared and whether an agreement or understanding exists between the applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any sharing of compensation or agreement or understanding therefor, except that details of any agreement by the applicant for the sharing of compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other entity. Unless the case is a chapter 9 municipality case, the applicant shall transmit to the United States trustee a copy of the application. | **(a) In General.**<br>(1) ***Application.*** If a~~A~~n entity ~~seeking~~ seeks from the estate interim or final compensation for services or reimbursement of necessary expenses, the entity must file an application showing:<br>(A) in detail the amounts requested and the services rendered, time ~~expended~~spent, and expenses incurred;<br>(B) all payments previously made or promised for services rendered or to be rendered in connection with the case;<br>(C) the source of the paid or promised compensation;<br>(D) whether any previous compensation has been shared; ~~and~~<br>~~(D)~~(E) whether an agreement or understanding exists between the applicant and any other entity for sharing compensation for services rendered or to be rendered in connection with the case; and<br>~~(E)~~(F) the particulars of any compensation sharing or agreement or understanding to share, except ~~by the applicant as~~with a member or regular associate of a law or accounting firm.<br>(2) ***Application for Services Rendered or to be Rendered by an Attorney or Accountant.*** The requirements of (a) apply to an application for compensation for services rendered by an attorney or accountant, even though |

| ORIGINAL | REVISION |
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| | a creditor or other entity files the application.<br><br>(3) ***Copy to the United States Trustee.*** Except in a Chapter 9 case, the applicant must send a copy of the application to the United States trustee. |
| (b) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO ATTORNEY FOR DEBTOR. Every attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief, or at another time as the court may direct, the statement required by § 329 of the Code including whether the attorney has shared or agreed to share the compensation with any other entity. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of the compensation with a member or regular associate of the attorney's law firm shall not be required. A supplemental statement shall be filed and transmitted to the United States trustee within 14 days after any payment or agreement not previously disclosed. | **(b) Disclosing Compensation Paid or Promised to the Debtor's Attorney.**<br><br>(1) ***Basic Requirements.*** Within 14 days after the order for relief—or at another time as the court orders—every debtor's attorney (whether or not applying for compensation) must file and send to the United States trustee the statement required by § 329. The statement must:<br><br>(A) show whether the attorney has shared or agreed to share compensation with any other entity; and;<br><br>(B) if so, the particulars of any sharing or agreement to share, except with a member or regular associate of the attorney's law firm.<br><br>(2) ***Supplemental Statement.*** Within 14 days after any payment or agreement to pay not previously disclosed, the attorney must file and send to the United States trustee a supplemental statement. |

| ORIGINAL | REVISION |
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| (c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Before a petition is filed, every bankruptcy petition preparer for a debtor shall deliver to the debtor, the declaration under penalty of perjury required by § 110(h)(2). The declaration shall disclose any fee, and the source of any fee, received from or on behalf of the debtorwithin 12 months of the filing of the case and all unpaid fees charged to the debtor. The declaration shall also describe the services performed and documents prepared or caused to be prepared by the bankruptcy petition preparer. The declaration shall be filed with the petition. The petition preparer shall file a supplemental statement within 14 days after any payment or agreement not previously disclosed. | **(c) Disclosing Compensation Paid or Promised to a Bankruptcy-Petition Preparer.**<br>(1) ***Basic Requirements.*** Before a petition is filed, every bankruptcy-petition preparer for a debtor must deliver to the debtor the declaration under penalty of perjury required by § 110(h)(2). The declaration must:<br>(A) disclose any fee, and its source, received from or on behalf of the debtor within 12 months before the petition's filing, together with all unpaid fees charged to the debtor;<br>(B) describe the services performed and the documents prepared or caused to be prepared by the bankruptcy--petition preparer; and<br>(C) be filed with the petition.<br>(2) ***Supplemental Statement.*** Within 14 days after any later payment or agreement to pay not previously disclosed, the bankruptcy--petition preparer must file a supplemental statement. |

**Committee Note**

The language of Rule 2016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2017. Examination of Debtor's Transactions with Debtor's Attorney** | **Rule 2017. Examining Transactions Between a Debtor and the Debtor's Attorney** |
| (a) PAYMENT OR TRANSFER TO ATTORNEY BEFORE ORDER FOR RELIEF. On motion by any party in interest or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Code by or against the debtor or before entry of the order for relief in an involuntary case, to an attorney for services rendered or to be rendered is excessive. | **(a) Payments or Transfers to an Attorney Made in Contemplation of Filing a Petition or Before the Order for Relief.** On ~~motion of a party in interest~~a party in interest's motion, or on its own, the court may, after notice and a hearing, determine whether a debtor's direct or indirect payment of money or transfer of property to an attorney for services rendered or to be rendered was excessive if it was made:<br>(1) in contemplation of the filing of a bankruptcy petition by or against the debtor~~,~~; or<br>(2) before the order for relief is entered in an involuntary case. |
| (b) PAYMENT OR TRANSFER TO ATTORNEY AFTER ORDER FOR RELIEF. On motion by the debtor, the United States trustee, or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after entry of an order for relief in a case under the Code is excessive, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to the case. | **(b) Payments or Transfers to an Attorney Made After the Order for Relief Is Entered.** On motion of the debtor or the United States trustee, or on its own, the court may, after notice and a hearing, determine whether a debtor's payment of money or transfer of property—or agreement to pay money or transfer property—to an attorney after an order for relief is entered is excessive. It does not matter ~~for the determination~~ whether the payment or transfer is made, or to be made, directly or indirectly, if the payment, transfer, or agreement is for services related to the case. |

**Committee Note**

The language of Rule 2017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2018. Intervention; Right to Be Heard** | **Rule 2018. Intervention by an Interested Entity; Right to Be Heard** |
| (a) PERMISSIVE INTERVENTION. In a case under the Code, after hearing on such notice as the court directs and for cause shown, the court may permit any interested entity to intervene generally or with respect to any specified matter. | **(a) In General.** After hearing on such notice as the court orders and for cause, the court may permit an interested entity to intervene generally or ~~regarding~~ in any specified matter. |
| (b) INTERVENTION BY ATTORNEY GENERAL OF A STATE. In a chapter 7, 11, 12, or 13 case, the Attorney General of a State may appear and be heard on behalf of consumer creditors if the court determines the appearance is in the public interest, but the Attorney General may not appeal from any judgment, order, or decree in the case. | **(b) Intervention by a State Attorney General.** In a Chapter 7, 11, 12, or 13 case, a state attorney general may appear and be heard on behalf of consumer creditors if the court determines that the appearance is in the public interest. But the state attorney general may not appeal from any judgment, order, or decree entered in the case. |
| (c) CHAPTER 9 MUNICIPALITY CASE. The Secretary of the Treasury of the United States may, or if requested by the court shall, intervene in a chapter 9 case. Representatives of the state in which the debtor is located may intervene in a chapter 9 case with respect to matters specified by the court. | **(c) Intervention by the United States Secretary of the Treasury or a State Representative.** In a Chapter 9 case:<br>(1) the United States Secretary of the Treasury may—and if requested by the court must—intervene; and<br>(2) a representative of the state where the debtor is located may intervene ~~on~~ in any matter~~s~~ the court specifies. |
| (d) LABOR UNIONS. In a chapter 9, 11, or 12 case, a labor union or employees' association, representative of employees of the debtor, shall have the right to be heard on the economic soundness of a plan affecting the interests of the employees. A labor union or employees' association which exercises its right to be heard under this subdivision shall not be entitled to appeal any judgment, order, or decree relating to the plan, unless otherwise permitted by law. | **(d) Intervention by a Labor Union or an Association Representing the Debtor's Employees.** In a Chapter 9, 11, or 12 case, a labor union or an association representing the debtor's employees has the right to be heard on the economic soundness of a plan affecting the employees' interests. Unless otherwise permitted by law, the labor union or employees' association exercising that right may not appeal any judgment, order, or decree related to the plan. |

| ORIGINAL | REVISION |
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| (e) SERVICE ON ENTITIES COVERED BY THIS RULE. The court may enter orders governing the service of notice and papers on entities permitted to intervene or be heard pursuant to this rule. | **(e) Serving Entities Covered by This Rule.** The court may issue orders governing the service of notice and ~~papers~~ documents on entities permitted to intervene or be heard under this Rule 2018. |

**Committee Note**

The language of Rule 2018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2019. Disclosure Regarding Creditors and Equity Security Holders in Chapter 9 and Chapter 11 Cases** | **Rule 2019. Disclosures by Groups, Committees, and Other Entities in a Chapter 9 or 11 Case** |
| (a) DEFINITIONS. In this rule the following terms have the meanings indicated:<br><br>(1) "Disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or any other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest.<br><br>(2) "Represent" or "represents" means to take a position before the court or to solicit votes regarding the confirmation of a plan on behalf of another. | **(a) Definitions.** In this Rule 2019:<br><br>(1) "disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest; and<br><br>(2) "represent" or "represents" means to take a position before the court or to solicit votes regarding a plan's confirmation on another's behalf. |
| (b) DISCLOSURE BY GROUPS, COMMITTEES, AND ENTITIES.<br><br>(1) In a chapter 9 or 11 case, a verified statement setting forth the information specified in subdivision (c) of this rule shall be filed by every group or committee that consists of or represents, and every entity that represents, multiple creditors or equity security holders that are (A) acting in concert to advance their common interests, and (B) not composed entirely of affiliates or insiders of one another.<br><br>(2) Unless the court orders otherwise, an entity is not required to file the verified statement described in paragraph (1) of this subdivision solely because of its status as:<br><br>(A) an indenture trustee;<br><br>(B) an agent for one or more other entities under an agreement | **(b) Who Must Disclose.**<br><br>(1) ***In General.*** In a Chapter 9 or 11 case, a verified statement containing the information listed in (c) must be filed by every group or committee consisting of or representing, and every entity representing, multiple creditors or equity security holders that are:<br><br>(A) acting in concert to advance their common interests; and<br><br>(B) not composed entirely of affiliates or insiders of one another.<br><br>(2) ***When a Disclosure Statement Is Not Required.*** Unless the court orders otherwise, an entity need not file the statement described in (1) solely because it is:<br><br>(A) an indenture trustee; |

| ORIGINAL | REVISION |
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| for the extension of credit;<br><br>(C) a class action representative; or<br><br>(D) a governmental unit that is not a person. | (B) an agent for one or more other entities under an agreement to extend credit;<br><br>(C) a class-action representative; or<br><br>(D) a governmental unit that is not a person. |
| (c) INFORMATION REQUIRED. The verified statement shall include:<br><br>(1) the pertinent facts and circumstances concerning:<br><br>(A) with respect to a group or committee, other than a committee appointed under § 1102 or § 1114 of the Code, the formation of the group or committee, including the name of each entity at whose instance the group or committee was formed or for whom the group or committee has agreed to act; or<br><br>(B) with respect to an entity, the employment of the entity, including the name of each creditor or equity security holder at whose instance the employment was arranged;<br><br>(2) if not disclosed under subdivision (c)(1), with respect to an entity, and with respect to each member of a group or committee:<br><br>(A) name and address;<br><br>(B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date the entity was employed or the group or committee was formed; and<br><br>(C) with respect to each member of a group or committee that claims to represent any entity in addition to the members of the group or committee, other than a committee | **(c) Required Information.** The verified statement must include:<br><br>(1) the pertinent facts and circumstances concerning:<br><br>(A) for a group or committee (except a committee appointed under § 1102 or § 1114), its formation, including the name of each entity at whose instance it was formed or for whom it has agreed to act; or<br><br>(B) for an entity, the entity's employment, including the name of each creditor or equity security holder at whose instance the employment was arranged;<br><br>(2) if not disclosed under (1), for each member of a group or committee and for an entity:<br><br>(A) name and address;<br><br>(B) the nature and amount of each disclosable economic interest held in relation to the debtor when the group or committee was formed or the entity was employed; and<br><br>(C) for each member of a group or committee claiming to represent any entity in addition to its own members (except a committee appointed under § 1102 or § 1114), the quarter and year in which each disclosable economic interest was acquired—unless it was acquired more than 1 year before the petition was filed; |

| ORIGINAL | REVISION |
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| appointed under § 1102 or § 1114 of the Code, the date of acquisition by quarter and year of each disclosable economic interest, unless acquired more than one year before the petition was filed;<br><br>(3) if not disclosed under subdivision (c)(1) or (c)(2), with respect to each creditor or equity security holder represented by an entity, group, or committee, other than a committee appointed under § 1102 or § 1114 of the Code:<br><br>(A) name and address; and<br><br>(B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date of the statement; and<br><br>(4) a copy of the instrument, if any, authorizing the entity, group, or committee to act on behalf of creditors or equity security holders. | (3) if not disclosed under (1) or (2), for each creditor or equity security holder represented by an entity, group, or committee (except a committee appointed under § 1102 or § 1114):<br><br>(A) name and address; and<br><br>(B) the nature and amount of each disclosable economic interest held in relation to the debtor on the statement's date; and<br><br>(4) a copy of any instrument authorizing the group, committee, or entity to act on behalf of creditors or equity security holders. |
| (d) SUPPLEMENTAL STATEMENTS. If any fact disclosed in its most recently filed statement has changed materially, an entity, group, or committee shall file a verified supplemental statement whenever it takes a position before the court or solicits votes on the confirmation of a plan. The supplemental statement shall set forth the material changes in the facts required by subdivision (c) to be disclosed. | **(d) Supplemental Statement~~s~~.** If a fact disclosed in its most recent statement has changed materially, a group, committee, or entity must file a verified supplemental statement whenever it takes a position before the court or solicits votes on a plan's confirmation. The supplemental statement must set forth any material changes in the information specified in (c). |
| (e) DETERMINATION OF FAILURE TO COMPLY; SANCTIONS.<br><br>(1) On motion of any party in interest, or on its own motion, the court may determine whether there has been a failure to comply with any provision of this rule. | **(e) Failure to Comply; Sanctions.**<br><br>(1) ***Failure to Comply.*** On a party in interest's motion, or on its own, the court may determine whether there has been a failure to comply with this Rule 2019. |

| ORIGINAL | REVISION |
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| (2) If the court finds such a failure to comply, it may:<br><br>(A) refuse to permit the entity, group, or committee to be heard or to intervene in the case;<br><br>(B) hold invalid any authority, acceptance, rejection, or objection given, procured, or received by the entity, group, or committee; or<br><br>(C) grant other appropriate relief. | (2) ***Sanctions.*** If the court finds a failure to comply, it may:<br><br>(A) refuse to permit the group, committee, or entity to be heard or to intervene in the case;<br><br>(B) hold invalid any authority, acceptance, rejection, or objection that the group, committee, or entity has given, procured, or received; or<br><br>(C) grant other appropriate relief. |

**Committee Note**

The language of Rule 2019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 2020. Review of Acts by United States Trustee** | **Rule 2020. Reviewing an Act by a United States Trustee** |
| A proceeding to contest any act or failure to act by the United States trustee is governed by Rule 9014. | A proceeding to contest any act or failure to act by a United States trustee is governed by Rule 9014. |

**Committee Note**

The language of Rule 2020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 3000 Series

| ORIGINAL | REVISION |
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| PART III—CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS | **PART III. CLAIMS; PLANS; DISTRIBUTIONS TO CREDITORS AND EQUITY SECURITY HOLDERS** |
| **Rule 3001. Proof of Claim** | **Rule 3001. Proof of Claim** |
| (a) FORM AND CONTENT. A proof of claim is a written statement setting forth a creditor's claim. A proof of claim shall conform substantially to the appropriate Official Form. | **(a) Definition and Form.** A proof of claim is a written statement of a creditor's claim. It must substantially conform to Form 410. |
| (b) WHO MAY EXECUTE. A proof of claim shall be executed by the creditor or the creditor's authorized agent except as provided in Rules 3004 and 3005. | **(b) Who May Sign a Proof of Claim.** Only a creditor or the creditor's agent may sign a proof of claim—except as provided in Rules 3004 and 3005. |
| (c) SUPPORTING INFORMATION.<br><br>(1) *Claim Based on a Writing.* Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.<br><br>(2) *Additional Requirements in an Individual Debtor Case; Sanctions for Failure to Comply.* In a case in which the debtor is an individual:<br><br>(A) If, in addition to its principal amount, a claim includes interest, fees, expenses, or other charges incurred before the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim.<br><br>(B) If a security interest is claimed in the debtor's property, a statement of the amount necessary to cure any default as of the date of the | **(c) Required Supporting Information.**<br><br>(1) ***Claim or Interest Based on a Writing.*** If a claim or an interest in the debtor's property securing the claim is based on a writing, the creditor must file a copy with the proof of claim—except for a claim based on a consumer-credit agreement under (4). If the writing has been lost or destroyed, a statement explaining the loss or destruction must be filed with the claim.<br><br>(2) ***Additional Information in an Individual Debtor's Case.*** If the debtor is an individual, the creditor must file with the proof of claim:<br><br>(A) an itemized statement of the principal amount and any interest, fees, expenses, or other charges incurred before the petition was filed;<br><br>(B) for any claimed security interest in the debtor's property, the amount needed to cure any default as of the date the petition was filed; and |

| ORIGINAL | REVISION |
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| petition shall be filed with the proof of claim.<br><br>(C) If a security interest is claimed in property that is the debtor's principal residence, the attachment prescribed by the appropriate Official Form shall be filed with the proof of claim. If an escrow account has been established in connection with the claim, an escrow account statement prepared as of the date the petition was filed and in a form consistent with applicable nonbankruptcy law shall be filed with the attachment to the proof of claim.<br><br>(D) If the holder of a claim fails to provide any information required by this subdivision (c), the court may, after notice and hearing, take either or both of the following actions:<br><br>(i) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or<br><br>(ii) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.<br><br>(3) *Claim Based on an Open-End or Revolving Consumer Credit Agreement.*<br><br>(A) When a claim is based on an open-end or revolving consumer credit agreement—except one for which a security interest is claimed in the debtor's real property—a statement shall be filed with the proof of claim, including all of the following information that applies to the account:<br><br>(i) the name of the entity from whom the creditor | (C) for any claimed security interest in the debtor's principal residence:<br><br>(i) Form 410A; and<br><br>(ii) if there is an escrow account connected with the claim, an escrow-account statement, prepared as of the date the petition was filed, that is consistent in form with applicable nonbankruptcy law.<br><br>(3) ***Sanctions in an Individual-Debtor Case.*** If the debtor is an individual and a claim holder fails to provide any information required by ~~(c)~~(1) ~~and~~ or (2), the court may, after notice and a hearing, take one or both of these actions:<br><br>(A) preclude the holder from presenting the information in any form as evidence in any contested matter or adversary proceeding in the case—unless the court determines that the failure is substantially justified or is harmless; and<br><br>(B) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.<br><br>(4) ***Claim Based on an Open-End or Revolving Consumer-Credit Agreement.***<br><br>(A) *Required Statement.* Except when the claim is secured by an interest in the debtor's real property, a proof of claim for a claim based on an open-end or revolving consumer-credit agreement must be accompanied by a statement that |

| ORIGINAL | REVISION |
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| purchased the account;<br><br>(ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;<br><br>(iii) the date of an account holder's last transaction;<br><br>(iv) the date of the last payment on the account; and<br><br>(v) the date on which the account was charged to profit and loss.<br><br>(B) On written request by a party in interest, the holder of a claim based on an open-end or revolving consumer credit agreement shall, within 30 days after the request is sent, provide the requesting party a copy of the writing specified in paragraph (1) of this subdivision. | shows the following information about the credit account:<br><br>(i) the name of the entity from whom the creditor purchased the account;<br><br>(ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;<br><br>(iii) the date of that last transaction;<br><br>(iv) the date of the last payment on the account; and<br><br>(v) the date that the account was charged to profit and loss.<br><br>(B) *Copy to a Party in Interest.* On a party in interest's written request, the creditor must send a copy of the writing described in ~~(c)~~(1) to that party ~~in interest~~ within 30 days after the request is sent. |
| (d) EVIDENCE OF PERFECTION OF SECURITY INTEREST. If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected. | **(d) Claim Based on a Security Interest in the Debtor's Property.** If a creditor claims a security interest in the debtor's property, the proof of claim must be accompanied by evidence that the security interest has been perfected. |
| (e) TRANSFERRED CLAIM.<br><br>(1) *Transfer of Claim Other Than for Security Before Proof Filed.* If a claim has been transferred other than for security before proof of the claim has been filed, the proof of claim may be filed only by the transferee or an indenture trustee.<br><br>(2) *Transfer of Claim Other than for Security after Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred other than for security after | **(e) Transferred Claim.**<br><br>(1) ***Claim Transferred Before a Proof of Claim Is Filed.*** Unless the transfer was made for security, if a claim was transferred before a proof of claim is~~was~~ filed, only the transferee or an indenture trustee may file a proof of claim. |

| ORIGINAL | REVISION |
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| the proof of claim has been filed, evidence of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If the alleged transferor files a timely objection and the court finds, after notice and a hearing, that the claim has been transferred other than for security, it shall enter an order substituting the transferee for the transferor. If a timely objection is not filed by the alleged transferor, the transferee shall be substituted for the transferor.<br><br>(3) *Transfer of Claim for Security Before Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer. If either the transferor or the transferee files a proof of claim, the clerk shall immediately notify the other by mail of the right to join in the filed claim. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. If the transferor or transferee does not file an agreement regarding its relative rights respecting voting of the claim, payment of dividends thereon, or participation in the administration of the estate, on motion by a party in interest and after notice and a hearing, the court shall enter such orders respecting these matters as may be appropriate.<br><br>(4) *Transfer of Claim for Security* | (2) ***Claim Transferred After a Proof of Claim Was Filed.***<br><br>(A) *Filing Evidence of the Transfer.* Unless the transfer was made for security, the transferee of a claim that was transferred after a proof of claim is filed must file evidence of the transfer—except for a claim based on a publicly traded note, bond, or debenture.<br><br>(B) *Notice of the Filing and the Time for Objecting.* The clerk must immediately notify the alleged transferor, by mail, that evidence of the transfer has been filed and that the alleged transferor has 21 days after the notice is mailed to file an objection. The court may extend the time to file it.<br><br>(C) *Hearing on an Objection; Substituting the Transferee.* If, on timely objection by the alleged transferor and after notice and a hearing, the court finds that the claim was transferred other than for security, the court must substitute the transferee for the transferor. If the alleged transferor does not file a timely objection, the transferee must be substituted for the transferor.<br><br>(3) ***Claim Transferred for Security Before a Proof of Claim ~~is~~ Is Filed.***<br><br>(A) *Right to File a Proof of Claim.* If a claim (except one based on a publicly traded note, bond, or debenture) was transferred for security before the proof of claim is~~was~~ filed, either the transferor or transferee (or both) may file a proof of claim for the full amount. The proof of claim must include a |

| ORIGINAL | REVISION |
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| *after Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred for security after the proof of claim has been filed, evidence of the terms of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If a timely objection is filed by the alleged transferor, the court, after notice and a hearing, shall determine whether the claim has been transferred for security. If the transferor or transferee does not file an agreement regarding its relative rights respecting voting of the claim, payment of dividends thereon, or participation in the administration of the estate, on motion by a party in interest and after notice and a hearing, the court shall enter such orders respecting these matters as may be appropriate.<br><br>(5) *Service of Objection or Motion; Notice of Hearing.* A copy of an objection filed pursuant to paragraph (2) or (4) or a motion filed pursuant to paragraph (3) or (4) of this subdivision together with a notice of a hearing shall be mailed or otherwise delivered to the transferor or transferee, whichever is appropriate, at least 30 days prior to the hearing. | statement setting forth the terms of the transfer.<br><br>(B) *Notice of a Right to Join in a Proof of Claim; Consolidating Proofs.* If either the transferor or transferee files a proof of claim, the clerk must, by mail, immediately notify the other of the right to join in the claim. If both file proofs of the same claim, the claims must be consolidated.<br><br>(C) *Failure to File an Agreement About the Rights of the Transferor and Transferee.* On a party in interest's motion and after notice and a hearing, the court must issue appropriate orders regarding the rights of the transferor and transferee if either one fails to file an agreement on voting the claim, receiving dividends on it, or participating in the estate's administration.<br><br>(4) ***Claim Transferred for Security After a Proof of Claim ~~Has Been~~Was Filed.***<br><br>(A) *Filing Evidence of the Transfer.* If a claim (except one based on a publicly traded note, bond, or debenture) was transferred for security after a proof of claim was filed, the transferee must file a statement setting forth the terms of the transfer.<br><br>(B) *Notice of the Filing and the Time for Objecting.* The clerk must immediately notify the alleged transferor, by mail, that evidence of the transfer has been filed and that the alleged transferor has 21 days after the notice is mailed to file an objection. The court may extend the time to file it.<br><br>(C) *Hearing on an Objection.* If the alleged transferor files a timely objection, |

| ORIGINAL | REVISION |
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| | the court must, after notice and a hearing, determine whether the transfer was for security.<br><br>(D) *Failure to File an Agreement About the Rights of the Transferor and Transferee.* On a party in interest's motion and after notice and a hearing, the court must issue appropriate orders regarding the rights of the transferor and transferee if either one fails to file an agreement on voting the claim, receiving dividends on it, or participating in the estate's administration.<br><br>(5) ***Serving an Objection or Motion; Notice of a Hearing.*** At least 30 days before a hearing, a copy of any objection filed under (2) or (4) or any motion filed under (3) or (4) must be mailed or delivered to either the transferor or transferee as appropriate, together with notice of the hearing. |
| (f) EVIDENTIARY EFFECT. A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. | **(f) Proof of Claim as Prima Facie Evidence of a Claim and Its Amount.** A proof of claim signed and filed in accordance with these rules is prima facie evidence of the claim's validity and amount ~~of the claim~~. |
| (g) To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title 11, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain. | **(g) Proving the Ownership and Quantity of Grain.** To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title 11, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain. |

**Committee Note**

The language of most provisions in Rule 3001 have been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. Rule 3001(g) has not been restyled (except to add a title) because it was enacted by Congress, P.L. 98-353, 98 Stat.

361, Sec. 354 (1984). The Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075, provides no authority to modify statutory language.

| ORIGINAL | REVISION |
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| **Rule 3002. Filing Proof of Claim or Interest** | **Rule 3002. Filing a Proof of Claim or Interest** |
| (a) NECESSITY FOR FILING. A secured creditor, unsecured creditor, or equity security holder must file a proof of claim or interest for the claim or interest to be allowed, except as provided in Rules 1019(3), 3003, 3004, and 3005. A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim. | **(a) Need to File.** Unless Rule 1019(c), 3003, 3004, or 3005 provides otherwise, every creditor must file a proof of claim—and an~~or~~ equity security holder must file a proof of ~~claim or~~ interest—~~-~~for the claim or interest to be allowed. A lien that secures a claim is not void solely because an entity failed to file a proof of claim. |
| (b) PLACE OF FILING. A proof of claim or interest shall be filed in accordance with Rule 5005. | **(b) Where to File.** The proof of claim or interest must be filed in the district where the case is pending and in accordance with Rule 5005. |
| (c) TIME FOR FILING. In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, a proof of claim is timely filed if it is filed not later than 70 days after the order for relief under that chapter or the date of the order of conversion to a case under chapter 12 or chapter 13. In an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the order for relief under that chapter is entered. But in all these cases, the following exceptions apply:<br><br>(1) A proof of claim filed by a governmental unit, other than for a claim resulting from a tax return filed under § 1308, is timely filed if it is filed not later than 180 days after the date of the order for relief. A proof of claim filed by a governmental unit for a claim resulting from a tax return filed under § 1308 is timely filed if it is filed no later than 180 days after the date of the order for relief or 60 days after the date of the filing of the tax return. The court may, for cause, enlarge the time for a governmental unit to file a proof of | **(c) Time to File.** In a voluntary Chapter 7 case or in a Chapter 12 or 13 case, the proof of claim is timely if ~~it is~~ filed within 70 days after the order for relief or entry of an order converting the case to Chapter 12 or 13. In an involuntary Chapter 7 case, a proof of claim is timely ~~filed~~ if ~~it is~~ filed within 90 days after the order for relief is entered. These exceptions apply in all cases:<br><br>(1) ***Governmental Unit.*** A governmental unit's proof of claim is timely if ~~it is~~ filed within 180 days after the order for relief. But a proof of claim resulting from a tax return filed under § 1308 is timely if ~~it is~~ filed within 180 days after the order for relief or within 60 days after the tax return is filed. On motion filed by a governmental unit before the time expires and for cause, the court may extend the time to file a proof of claim.<br><br>(2) ***Infant or Incompetent Person.*** In the interests of justice, the court may extend the time for an infant or incompetent person—or a representative of either—to file a |

| ORIGINAL | REVISION |
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| claim only upon motion of the governmental unit made before expiration of the period for filing a timely proof of claim.<br><br>(2) In the interest of justice and if it will not unduly delay the administration of the case, the court may extend the time for filing a proof of claim by an infant or incompetent person or the representative of either.<br><br>(3) An unsecured claim which arises in favor of an entity or becomes allowable as a result of a judgment may be filed within 30 days after the judgment becomes final if the judgment is for the recovery of money or property from that entity or denies or avoids the entity's interest in property. If the judgment imposes a liability which is not satisfied, or a duty which is not performed within such period or such further time as the court may permit, the claim shall not be allowed.<br><br>(4) A claim arising from the rejection of an executory contract or unexpired lease of the debtor may be filed within such time as the court may direct.<br><br>(5) If notice of insufficient assets to pay a dividend was given to creditors under Rule 2002(e), and subsequently the trustee notifies the court that payment of a dividend appears possible, the clerk shall give at least 90 days' notice by mail to creditors of that fact and of the date by which proofs of claim must be filed.<br><br>(6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file | proof of claim, but only if the extension will not unduly delay case administration.<br><br>(3) ***Unsecured Claim That Arises from a Judgment.*** This paragraph (3) applies if a~~A~~n unsecured claim ~~that~~ arises in favor of an entity or becomes allowable because of a judgment ~~may be filed within 30 days after the judgment becomes final if it is~~ to recover money or property from that entity or a judgment that denies or avoids the entity's interest in property. The claim may be filed within 30 days after the judgment becomes final. But t~~T~~he claim must not be allowed if the judgment imposes a liability that is not satisfied—or a duty that is not performed—within the 30 days or any additional time set by the court.<br><br>(4) ***Claim Arising from a Rejected Executory Contract or Unexpired Lease.*** A proof of claim for a claim that arises from a rejected executory contract or an unexpired lease may be filed within the time set by the court.<br><br>(5) ***Notice That Assets May Be Available to Pay a Dividend.*** The clerk must, by mail, give at least 90 days' notice to creditors that a dividend payment appears possible and that proofs of claim must be filed by the date set forth in the notice if:<br><br>(A) a notice of insufficient assets to pay a dividend had been given under Rule 2002(e); and<br><br>(B) the trustee later notifies the court that a dividend appears possible.<br><br>(6) ***Claim Secured by a Security Interest in the Debtor's Principal Residence.*** A proof of a claim secured by a security interest in the debtor's principal residence is timely filed if: |

| ORIGINAL | REVISION |
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| a proof of claim.<br><br>(7) A proof of claim filed by the holder of a claim that is secured by a security interest in the debtor's principal residence is timely filed if:<br><br>(A) the proof of claim, together with the attachments required by Rule 3001(c)(2)(C), is filed not later than 70 days after the order for relief is entered; and<br><br>(B) any attachments required by Rule 3001(c)(1) and (d) are filed as a supplement to the holder's claim not later than 120 days after the order for relief is entered. | (A) the proof of claim and attachments required by Rule 3001(c)(2)(C) are filed within 70 days after the order for relief; and<br><br>(B) the attachments required by Rule 3001(c)(1) and (d) are filed as a supplement to the holder's claim within 120 days after the order for relief.<br><br>(7) ***Extending the Time to File.*** On a creditor's motion filed before or after the time to file a proof of claim has expired, the court may extend the time to file by no more than 60 days from the date of its order. The motion may be granted if the court finds that the notice was insufficient -to give the creditor a reasonable time to file. |

**Committee Note**

The language of Rule 3002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence** | **Rule 3002.1. Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case** |
| (a) IN GENERAL. This rule applies in a chapter 13 case to claims (1) that are secured by a security interest in the debtor's principal residence, and (2) for which the plan provides that either the trustee or the debtor will make contractual installment payments. Unless the court orders otherwise, the notice requirements of this rule cease to apply when an order terminating or annulling the automatic stay becomes effective with respect to the residence that secures the claim. | **(a) In General.** This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make contractual installment payments. Unless the court orders otherwise, the notice requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective. |
| (b) NOTICE OF PAYMENT CHANGES; OBJECTION.<br><br>(1) *Notice.* The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change in the payment amount, including any change that results from an interest-rate or escrow-account adjustment, no later than 21 days before a payment in the new amount is due. If the claim arises from a home-equity line of credit, this requirement may be modified by court order.<br><br>(2) *Objection.* A party in interest who objects to the payment change may file a motion to determine whether the change is required to maintain payments in accordance with § 1322(b)(5) of the Code. If no motion is filed by the day before the new amount is due, the change goes into effect, unless the court orders otherwise. | **(b) Notice of a Payment Change.**<br><br>(1) ***Notice by the Claim Holder.*** The claim holder must file a notice of any change in the amount of an installment payment—including any change resulting from an interest-rate or escrow-account adjustment. At least 21 days before the new payment is due, the notice must be filed and served on:<br><br>• the debtor;<br><br>• the debtor's attorney; and<br><br>• the trustee.<br><br>If the claim arises from a home-equity line of credit, the court may modify this requirement.<br><br>(2) ***Party in Interest's Objection.*** A party in interest who objects to the payment change may file a motion to determine whether the change is required to maintain payments under § 1322(b)(5). Unless the court orders otherwise, if no motion is filed by the day before the new payment is due, the change goes into effect. |

| ORIGINAL | REVISION |
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| (c) NOTICE OF FEES, EXPENSES, AND CHARGES. The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice itemizing all fees, expenses, or charges (1) that were incurred in connection with the claim after the bankruptcy case was filed, and (2) that the holder asserts are recoverable against the debtor or against the debtor's principal residence. The notice shall be served within 180 days after the date on which the fees, expenses, or charges are incurred. | **(c) Fees, Expenses, and Charges Incurred After the Case Was Filed; Notice by the Claim Holder.** The claim holder must file a notice itemizing all fees, expenses, and charges incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges were incurred, the notice must be served on:<br>• the debtor;<br>• the debtor's attorney; and<br>• the trustee. |
| (d) FORM AND CONTENT. A notice filed and served under subdivision (b) or (c) of this rule shall be prepared as prescribed by the appropriate Official Form, and filed as a supplement to the holder's proof of claim. The notice is not subject to Rule 3001(f). | **(d) Filing Notice as a Supplement to a Proof of Claim.** A notice under (b) or (c) must be filed as a supplement to the proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f). |
| (e) DETERMINATION OF FEES, EXPENSES, OR CHARGES. On motion of a party in interest filed within one year after service of a notice under subdivision (c) of this rule, the court shall, after notice and hearing, determine whether payment of any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5) of the Code. | **(e) Determining Fees, Expenses, or Charges.** On a party in interest's motion filed within one year after the notice in (c) was served, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments under § 1322(b)(5). |
| (f) NOTICE OF FINAL CURE PAYMENT. Within 30 days after the debtor completes all payments under the plan, the trustee shall file and serve on | **(f) Notice of the Final Cure Payment.**<br>(1) ***Content~~s~~ of a Notice.*** Within 30 days after the debtor completes all |

| ORIGINAL | REVISION |
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| the holder of the claim, the debtor, and debtor's counsel a notice stating that the debtor has paid in full the amount required to cure any default on the claim. The notice shall also inform the holder of its obligation to file and serve a response under subdivision (g). If the debtor contends that final cure payment has been made and all plan payments have been completed, and the trustee does not timely file and serve the notice required by this subdivision, the debtor may file and serve the notice. | payments under a Chapter 13 plan, the trustee must file a notice:<br>(A) stating that the debtor has paid in full the amount required to cure any default on the claim; and<br>(B) informing the claim holder of its obligation to file and serve a response under (g).<br>(2) ***Serving the Notice.*** The notice must be served on:<br>• the claim holder;<br>• the debtor; and<br>• the debtor's attorney.<br>(3) ***The Debtor's Right to File.*** The debtor may file and serve the notice if:<br>(A) the trustee fails to do so; and<br>(B) the debtor contends that the final cure payment has been made and all plan payments have been completed. |
| (g) RESPONSE TO NOTICE OF FINAL CURE PAYMENT. Within 21 days after service of the notice under subdivision (f) of this rule, the holder shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim, and (2) whether the debtor is otherwise current on all payments consistent with § 1322(b)(5) of the Code. The statement shall itemize the required cure or postpetition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of | **(g) Response to a Notice of the Final Cure Payment.**<br>(1) ***Required Statement.*** Within 21 days after the notice under (f) is served, the claim holder must file and serve a statement that:<br>(A) indicates whether:<br>(i) the claim holder agrees that the debtor has paid in full the amount required to cure any default on the claim; and<br>(ii) the debtor is otherwise current on all payments under § 1322(b)(5); and<br>(B) itemizes the required cure or postpetition amounts, if any, |

| ORIGINAL | REVISION |
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| claim and is not subject to Rule 3001(f). | that the claim holder contends remain unpaid as of the statement's date.<br>(2) ***Persons to be Served.*** The holder must serve the statement on:<br>• the debtor;<br>• the debtor's attorney; and<br>• the trustee.<br>(3) ***Statement to be a Supplement.*** The statement must be filed as a supplement to the proof of claim and is not subject to Rule 3001(f). |
| (h) DETERMINATION OF FINAL CURE AND PAYMENT. On motion of the debtor or trustee filed within 21 days after service of the statement under subdivision (g) of this rule, the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts. | **(h) Determining the Final Cure Payment.** On the debtor's or trustee's motion filed within 21 days after the statement under (g) is served, the court must, after notice and a hearing, determine whether the debtor has cured the default and made all required postpetition payments. |
| (i) FAILURE TO NOTIFY. If the holder of a claim fails to provide any information as required by subdivision (b), (c), or (g) of this rule, the court may, after notice and hearing, take either or both of the following actions:<br>(1) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or<br>(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure. | **(i) Failure to Give Notice.** If the claim holder fails to provide any information as required by (b), (c), or (g), the court may, after notice and a hearing, take one or both of these actions:<br>(1) preclude the holder from presenting the omitted information in any form as evidence in a contested matter or adversary proceeding in the case—unless the failure was substantially justified or is harmless; and<br>(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure. |

**Committee Note**

The language of Rule 3002.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent

throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3003. Filing Proof of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases** | **Rule 3003. Chapter 9 or 11—Filing a Proof of Claim or Equity Interest** |
| (a) APPLICABILITY OF RULE. This rule applies in chapter 9 and 11 cases. | **(a) Scope.** This rule applies only in a Chapter 9 or 11 case. |
| (b) SCHEDULE OF LIABILITIES AND LIST OF EQUITY SECURITY HOLDERS.<br><br>(1) *Schedule of Liabilities.* The schedule of liabilities filed pursuant to § 521(l) of the Code shall constitute prima facie evidence of the validity and amount of the claims of creditors, unless they are scheduled as disputed, contingent, or unliquidated. It shall not be necessary for a creditor or equity security holder to file a proof of claim or interest except as provided in subdivision (c)(2) of this rule.<br><br>(2) *List of Equity Security Holders.* The list of equity security holders filed pursuant to Rule 1007(a)(3) shall constitute prima facie evidence of the validity and amount of the equity security interests and it shall not be necessary for the holders of such interests to file a proof of interest. | **(b) Scheduled Liabilities and Listed Equity Security Holders as Prima Facie Evidence of Validity and Amount.**<br><br>(1) ***Creditor's Claim.*** An entry on the schedule of liabilities filed under § 521(a)(1)(B)(i) is prima facie evidence of the validity and the amount of a creditor's claim—except for a claim scheduled as disputed, contingent, or unliquidated. Filing a proof of claim is unnecessary except as provided in (c)(2).<br><br>(2) ***Interest of an Equity Security Holder.*** An entry on the list of equity security holders filed under Rule 1007(a)(3) is prima facie evidence of the validity and the amount of the equity interest. Filing a proof of the interest is unnecessary except as provided in (c)(2). |
| (c) FILING PROOF OF CLAIM.<br><br>(1) *Who May File.* Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.<br><br>(2) *Who Must File.* Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be | **(c) Filing a Proof of Claim.**<br><br>(1) ***Who May File a Proof of Claim.*** A creditor or indenture trustee may file a proof of claim.<br><br>(2) ***Who Must File a Proof of Claim or Interest.*** A creditor or equity security holder whose claim or interest is not scheduled—or is scheduled as disputed, contingent, or unliquidated—must file a proof of claim or interest. A creditor who fails to do so will not be treated as a creditor for that claim for voting and distribution. |

| ORIGINAL | REVISION |
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| treated as a creditor with respect to such claim for the purposes of voting and distribution.<br><br>(3) *Time for Filing.* The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), (c)(4), and (c)(6).<br><br>(4) *Effect of Filing Claim or Interest.* A proof of claim or interest executed and filed in accordance with this subdivision shall supersede any scheduling of that claim or interest pursuant to § 521(a)(1) of the Code.<br><br>(5) *Filing by Indenture Trustee.* An indenture trustee may file a claim on behalf of all known or unknown holders of securities issued pursuant to the trust instrument under which it is trustee. | (3) ***Time to File.*** The court must set the time to file a proof of claim or interest and may, for cause, extend the time. If the time has expired, the proof of claim or interest may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (3), (4), and (7).<br><br>(4) ***Proof of Claim by an Indenture Trustee.*** An indenture trustee may file a proof of claim on behalf of all known or unknown holders of securities issued under the trust instrument under which it is trustee.<br><br>(5) ***Effect of Filing a Proof of Claim or Interest.*** A proof of claim or interest signed and filed under (c) supersedes any scheduling ~~under § 521(a)(1)~~ of the claim or interest under § 521(a)(1). |
| (d) PROOF OF RIGHT TO RECORD STATUS. For the purposes of Rules 3017, 3018 and 3021 and for receiving notices, an entity who is not the record holder of a security may file a statement setting forth facts which entitle that entity to be treated as the record holder. An objection to the statement may be filed by any party in interest. | **(d) Treating a Nonrecord Holder of a Security as the Record Holder.** For the purpose of Rules 3017, 3018, and 3021 and receiving notices, an entity that is not a record holder of a security may file a statement setting forth facts that entitle the entity to be treated as the record holder. A party in interest may file an objection to the statement. |

**Committee Note**

The language of Rule 3003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3004. Filing of Claims by Debtor or Trustee** | **Rule 3004. Proof of Claim Filed by the Debtor or Trustee for a Creditor** |
| If a creditor does not timely file a proof of claim under Rule 3002(c) or 3003(c), the debtor or trustee may file a proof of the claim within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or 3003(c), whichever is applicable. The clerk shall forthwith give notice of the filing to the creditor, the debtor and the trustee. | **(a) Filing by the Debtor or Trustee.** If a creditor does not file a proof of claim within the time prescribed by Rule 3002(c) or Rule 3003(c), the debtor or trustee may do so within 30 days after the creditor's time to file expires.<br>**(b) Notice by the Clerk.** The clerk must promptly give notice of the filing to:<br>• the creditor;<br>• the debtor; and<br>• the trustee. |

**Committee Note**

The language of Rule 3004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3005. Filing of Claim, Acceptance, or Rejection by Guarantor, Surety, Indorser, or Other Codebtor** | **Rule 3005. Filing a Proof of Claim or Accepting or Rejecting a Plan by a Surety, Endorser, Guarantor, or Other Codebtor** |
| (a) FILING OF CLAIM. If a creditor does not timely file a proof of claim under Rule 3002(c) or 3003(c), any entity that is or may be liable with the debtor to that creditor, or who has secured that creditor, may file a proof of the claim within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or Rule 3003(c) whichever is applicable. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of distribution. | **(a) In General.** If a creditor fails to file a proof of claim within the time prescribed by Rule 3002(c) or Rule 3003(c), it may be filed by an entity that, along with the debtor, is or may be liable to the creditor or has given security for the creditor's debt. The entity must do so within 30 days after the creditor's time to file expires. A distribution on such a claim may be made only on satisfactory proof that the distribution will diminish the original debt ~~will be diminished by the distribution~~. |
| (b) FILING OF ACCEPTANCE OR REJECTION; SUBSTITUTION OF CREDITOR. An entity which has filed a claim pursuant to the first sentence of subdivision (a) of this rule may file an acceptance or rejection of a plan in the name of the creditor, if known, or if unknown, in the entity's own name but if the creditor files a proof of claim within the time permitted by Rule 3003(c) or files a notice prior to confirmation of a plan of the creditor's intention to act in the creditor's own behalf, the creditor shall be substituted for the obligor with respect to that claim. | **(b) Accepting or Rejecting a Plan in a Creditor's Name.** An entity that has filed a proof of claim on a creditor's behalf ~~of a creditor~~ under (a) may accept or reject a plan in the creditor's name. If the creditor's name is unknown, the entity may do so in its own name. But the creditor must be substituted for the entity on that claim if the creditor:<br>(1) files a proof of claim within the time permitted by Rule 3003(c); or<br>(2) files notice, before the plan is confirmed, of an intent to act ~~in~~ on the creditor's own behalf. |

**Committee Note**

The language of Rule 3005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3006. Withdrawal of Claim; Effect on Acceptance or Rejection of Plan** | **Rule 3006. Withdrawing a Proof of Claim; Effect on a Plan** |
| A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If after a creditor has filed a proof of claim an objection is filed thereto or a complaint is filed against that creditor in an adversary proceeding, or the creditor has accepted or rejected the plan or otherwise has participated significantly in the case, the creditor may not withdraw the claim except on order of the court after a hearing on notice to the trustee or debtor in possession, and any creditors' committee elected pursuant to § 705(a) or appointed pursuant to § 1102 of the Code. The order of the court shall contain such terms and conditions as the court deems proper. Unless the court orders otherwise, an authorized withdrawal of a claim shall constitute withdrawal of any related acceptance or rejection of a plan. | **(a) Notice of Withdrawal; Limitations.** A creditor may withdraw a proof of claim by filing a notice of withdrawal. But unless the court orders otherwise after notice and a hearing, a creditor may not withdraw a proof of claim if:<br>(1) an objection to it has been filed;<br>(2) a complaint has been filed against the creditor in an adversary proceeding; or<br>(3) the creditor has accepted or rejected the plan or has participated significantly in the case.<br>**(b) Notice of the Hearing; Order Permitting Withdrawal.** Notice of the hearing must be served on:<br>• the trustee or debtor in possession; and<br>• any creditors' committee elected under § 705(a) or appointed under § 1102.<br>The court's order permitting a creditor to withdraw a proof of claim may contain any terms and conditions the court considers proper.<br>**(c) Effect of Withdrawing a Proof of Claim.** Unless the court orders otherwise, an authorized withdrawal constitutes withdrawal of any related acceptance or rejection of a plan. |

**Committee Note**

The language of Rule 3006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3007. Objections to Claims** | **Rule 3007. Objecting to a Claim** |
| (a) TIME AND MANNER OF SERVICE.<br><br>(1) *Time of Service.* An objection to the allowance of a claim and a notice of objection that substantially conforms to the appropriate Official Form shall be filed and served at least 30 days before any scheduled hearing on the objection or any deadline for the claimant to request a hearing.<br><br>(2) *Manner of Service.*<br><br>(A) The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated; and<br><br>(i) if the objection is to a claim of the United States, or any of its officers or agencies, in the manner provided for service of a summons and complaint by Rule 7004(b)(4) or (5); or<br><br>(ii) if the objection is to a claim of an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act, in the manner provided in Rule 7004(h).<br><br>(B) Service of the objection and notice shall also be made by first-class mail or other permitted means on the debtor or debtor in possession, the trustee, and, if applicable, the entity filing the proof of claim under Rule 3005. | **(a) Time and Manner of Serving the Objection.**<br><br>(1) ***Time to Serve.*** An objection to a claim and a notice of the objection must be filed and served at least 30 days before a scheduled hearing on the objection or any deadline for the claim holder to request a hearing.<br><br>(2) ***Whom to Serve; Manner of Service.***<br><br>(A) *Serving the Claim Holder.* The notice—substantially conforming to Form 420B—and objection must be served by mail on the person the claim holder most recently designated to receive notices on the claim holder's original or latest amended proof of claim, at the address so indicated. If the objection is to a claim of:<br><br>(i) the United States or one of its officers or agencies, service must also be made as if it were a summons and complaint under Rule 7004(b)(4) or (5); or<br><br>(ii) an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act, service must also be made under Rule 7004(h).<br><br>(B) *Serving Others.* The notice and objection must also be served, by mail (or other permitted means), on:<br><br>• the debtor or debtor in possession;<br><br>• the trustee; and<br><br>• if applicable, the entity that filed the proof of claim under Rule 3005. |

| ORIGINAL | REVISION |
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| (b) DEMAND FOR RELIEF REQUIRING AN ADVERSARY PROCEEDING. A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding. | **(b) Demanding Relief That Requires an Adversary Proceeding Not Permitted.** In objecting to a claim, a party in interest must not include a demand for a type of relief specified in Rule 7001 but may include the objection in an adversary proceeding. |
| (c) LIMITATION ON JOINDER OF CLAIMS OBJECTIONS. Unless otherwise ordered by the court or permitted by subdivision (d), objections to more than one claim shall not be joined in a single objection. | **(c) Limit on Omnibus Objections.** Unless the court orders otherwise or (d) permits, objections to more than one claim may not be joined in a single objection. |
| (d) OMNIBUS OBJECTION. Subject to subdivision (e), objections to more than one claim may be joined in an omnibus objection if all the claims were filed by the same entity, or the objections are based solely on the grounds that the claims should be disallowed, in whole or in part, because:<br>(1) they duplicate other claims;<br>(2) they have been filed in the wrong case;<br>(3) they have been amended by subsequently filed proofs of claim;<br>(4) they were not timely filed;<br>(5) they have been satisfied or released during the case in accordance with the Code, applicable rules, or a court order;<br>(6) they were presented in a form that does not comply with applicable rules, and the objection states that the objector is unable to determine the validity of the claim because of the noncompliance;<br>(7) they are interests, rather than claims; or | **(d) Omnibus Objection.** Subject to (e), objections to more than one claim may be joined in a single objection if:<br>(1) all the claims were filed by the same entity; or<br>(2) the objections are based solely on grounds that the claims should be disallowed, in whole or in part, because they:<br>(A) duplicate other claims;<br>(B) were filed in the wrong case;<br>(C) have been amended by later proofs of claim;<br>(D) were not timely filed;<br>(E) have been satisfied or released during the case in accordance with the Code, applicable rules, or a court order;<br>(F) were presented in a form that does not comply with applicable rules and the objection states that ~~because of the noncompliance~~ the objector is therefore unable to determine a claim's validity;<br>~~(F)~~(G) are interests, not claims; or |

| ORIGINAL | REVISION |
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| (8) they assert priority in an amount that exceeds the maximum amount under § 507 of the Code. | (H) assert a priority in an amount that exceeds the maximum amount allowable under § 507. |
| (e) REQUIREMENTS FOR OMNIBUS OBJECTION. An omnibus objection shall:<br>(1) state in a conspicuous place that claimants receiving the objection should locate their names and claims in the objection;<br>(2) list claimants alphabetically, provide a cross-reference to claim numbers, and, if appropriate, list claimants by category of claims;<br>(3) state the grounds of the objection to each claim and provide a cross-reference to the pages in the omnibus objection pertinent to the stated grounds;<br>(4) state in the title the identity of the objector and the grounds for the objections;<br>(5) be numbered consecutively with other omnibus objections filed by the same objector; and<br>(6) contain objections to no more than 100 claims. | **(e) Required Content of an Omnibus Objection.** An omnibus objection must:<br>(1) state in a conspicuous place that claim holders can find their names and claims in the objection;<br>(2) list the claim holders alphabetically, provide a cross-reference to claim numbers, and, if appropriate, list claim holders by category of claims;<br>(3) state for each claim the grounds for the objection and provide a cross-reference to the pages where pertinent information about the grounds appears;<br>(4) state in the title the objector's identity and the grounds for the objections;<br>(5) be numbered consecutively with other omnibus objections filed by the same objector; and<br>(6) contain objections to no more than 100 claims. |
| (f) FINALITY OF OBJECTION. The finality of any order regarding a claim objection included in an omnibus objection shall be determined as though the claim had been subject to an individual objection. | **(f) Finality of an Order When Objections Are Joined.** When objections are joined, the finality of an order regarding any claim must be determined as though the claim had been subject to an individual objection. |

**Committee Note**

The language of Rule 3007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 3008. Reconsideration of Claims** | **Rule 3008. Reconsidering an Order Allowing or Disallowing a Claim** |
| A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. The court after a hearing on notice shall enter an appropriate order. | A party in interest may move to reconsider an order allowing or disallowing a claim. After notice and a hearing, the court must issue an appropriate order. |

**Committee Note**

The language of Rule 3008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 3009. Declaration and Payment of Dividends in a Chapter 7 Liquidation Case** | **Rule 3009. Chapter 7—Paying Dividends** |
| In a chapter 7 case, dividends to creditors shall be paid as promptly as practicable. Dividend checks shall be made payable to and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another entity to receive dividends has been executed and filed in accordance with Rule 9010. In that event, dividend checks shall be made payable to the creditor and to the other entity and shall be mailed to the other entity. | In a Chapter 7 case, dividends to creditors on claims that have been allowed must be paid as soon as practicable. A dividend check must be made payable to and mailed to the creditor. But if a power of attorney authorizing another entity to receive payment has been filed under Rule 9010, the check must be:<br>(a) made payable to both the creditor and the other entity; and<br>(b) mailed to the other entity. |

**Committee Note**

The language of Rule 3009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3010. Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13** | **Rule 3010. Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13—Limits on Small Dividends and Payments** |
| (a) CHAPTER 7 CASES. In a chapter 7 case no dividend in an amount less than $5 shall be distributed by the trustee to any creditor unless authorized by local rule or order of the court. Any dividend not distributed to a creditor shall be treated in the same manner as unclaimed funds as provided in § 347 of the Code. | **(a) Chapter 7.** In a Chapter 7 case, the trustee must not distribute to a creditor any dividend less than $5 unless authorized to do so by local rule or court order. A dividend not distributed must be treated in the same manner as unclaimed funds under § 347. |
| (b) CASES UNDER SUBCHAPTER V OF CHAPTER 11, CHAPTER 12, AND CHAPTER 13. In a case under subchapter V of chapter 11, chapter 12, or chapter 13, no payment in an amount less than $15 shall be distributed by the trustee to any creditor unless authorized by local rule or order of the court. Funds not distributed because of this subdivision shall accumulate and shall be paid whenever the accumulation aggregates $15. Any funds remaining shall be distributed with the final payment. | **(b) Subchapter V of Chapter 11, Chapter 12, and Chapter 13.** In a case under Subchapter V of Chapter 11, or under Chapter 12 or 13, the trustee must not distribute to a creditor any payment less than $15 unless authorized to do so by local rule or court order. Distribution must be made when accumulated funds total $15 or more. Any remaining funds must be distributed with the final payment. |

**Committee Note**

The language of Rule 3010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 3011. Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13** | **Rule 3011. Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13—Listing Unclaimed Funds** |
| (a) The trustee shall file a list of all known names and addresses of the entities and the amounts which they are entitled to be paid from remaining property of the estate that is paid into court pursuant to § 347 of the Code.<br><br>(b) On the court's website, the clerk must provide searchable access to information about funds deposited under § 347(a). The court may, for cause, limit access to information about funds in a specific case. | **(a) Filing the List.** The trustee must:<br><br>(1) file a list of the known names and addresses of entities entitled to payment from any remaining property of the estate that is paid into court under § 347(a); and<br><br>(2) include the amount due each entity.<br><br>**(b) Making the Information Searchable.** On the court's website, the clerk must provide searchable access to information about funds deposited under § 347(a). The court may, for cause, limit access to that information ~~about funds~~ in a specific case. |

**Committee Note**

The language of Rule 3011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] Rule 3011 original text shows changes on track to go into effect on December 1, 2023 if approved by the Supreme Court and if Congress takes no contrary action.

| ORIGINAL | REVISION |
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| **Rule 3012. Determining the Amount of Secured and Priority Claims** | **Rule 3012. Determining the Amount of a Secured or Priority Claim** |
| (a) DETERMINATION OF AMOUNT OF CLAIM. On request by a party in interest and after notice—to the holder of the claim and any other entity the court designates—and a hearing, the court may determine:<br>(1) the amount of a secured claim under § 506(a) of the Code; or<br>(2) the amount of a claim entitled to priority under § 507 of the Code. | **(a) In General.** On a party in interest's request, after notice and a hearing, the court may determine the amount of a secured claim under § 506(a) or the amount of a priority claim under § 507. The notice must be served on:<br>• the claim holder; and<br>• any other entity the court designates. |
| (b) REQUEST FOR DETERMINATION; HOW MADE. Except as provided in subdivision (c), a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 12 or chapter 13 case. When the request is made in a chapter 12 or chapter 13 plan, the plan shall be served on the holder of the claim and any other entity the court designates in the manner provided for service of a summons and complaint by Rule 7004. A request to determine the amount of a claim entitled to priority may be made only by motion after a claim is filed or in a claim objection. | **(b) Determining the Amount of a Claim.**<br>(1) ***Secured Claim.*** Except as provided in (c), a request to determine the amount of a secured claim may be made by motion, in an objection to a claim, or in a plan filed in a Chapter 12 or 13 case. If the request is included in a plan, a copy of the plan must be served on the claim holder and any other entity the court designates as if it were a summons and complaint under Rule 7004.<br>(2) ***Priority Claim.*** A request to determine the amount of a priority claim may be made only by motion after the claim is filed or in an objection to the claim. |
| (c) CLAIMS OF GOVERNMENTAL UNITS. A request to determine the amount of a secured claim of a governmental unit may be made only by motion or in a claim objection after the governmental unit files a proof of claim or after the time for filing one under Rule 3002(c)(1) has expired. | **(c) Governmental Unit's Secured Claim.** A request to determine the amount of a governmental unit's secured claim may be made only by motion—or in an objection to a claim—filed after:<br>(1) the governmental unit has filed the proof of claim; or<br>(2) the time to file it under Rule 3002(c)(1) has expired. |

**Committee Note**

The language of Rule 3012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 3013. Classification of Claims and Interests** | **Rule 3013. Determining Classes of Creditors and Equity Security Holders** |
| For the purposes of the plan and its acceptance, the court may, on motion after hearing on notice as the court may direct, determine classes of creditors and equity security holders pursuant to §§ 1122, 1222(b)(1), and 1322(b)(1) of the Code. | For purposes of a plan and its acceptance, the court may—on motion after hearing on notice as the court ~~directs~~orders—determine classes of creditors and equity security holders under §§ -1122, 1222(b)(1), and 1322(b)(1). |

**Committee Note**

The language of Rule 3013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 3014. Election Under § 1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case** | **Rule 3014. Chapter 9 or 11—Secured Creditors' Election to Apply § 1111(b)** |
| An election of application of § 1111(b)(2) of the Code by a class of secured creditors in a chapter 9 or 11 case may be made at any time prior to the conclusion of the hearing on the disclosure statement or within such later time as the court may fix. If the disclosure statement is conditionally approved pursuant to Rule 3017.1, and a final hearing on the disclosure statement is not held, the election of application of § 1111(b)(2) may be made not later than the date fixed pursuant to Rule 3017.1(a)(2) or another date the court may fix. In a case under subchapter V of chapter 11 in which § 1125 of the Code does not apply, the election may be made not later than a date the court may fix. The election shall be in writing and signed unless made at the hearing on the disclosure statement. The election, if made by the majorities required by § 1111(b)(1)(A)(i), shall be binding on all members of the class with respect to the plan. | **(a) Time for an Election.**<br>(1) ***Chapter 9 or 11.*** In a Chapter 9 or 11 case, before a hearing on the disclosure statement concludes, a class of secured creditors may elect to apply § 1111(b)(2). If the disclosure statement is conditionally approved under Rule 3017.1 and a final hearing on it is not held, the election must be made within the time provided in Rule 3017.1(a)(2). In either situation, the court may set another time for the election.<br>(2) ***Subchapter V of Chapter 11.*** In a case under Subchapter V of Chapter 11 in which § 1125 does not apply, the election may be made no later than a date the court sets.<br>~~(a)~~**(b) Signed Writing; Binding Effect**. The election must be made in writing and signed, unless made at the hearing on the disclosure statement. An election made by the majorities required by § 1111(b)(1)(A)(i) is binding on all members of the class. |

**Committee Note**

The language of Rule 3014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3015. Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 or a Chapter 13 Case** | **Rule 3015. Chapter 12 or 13—Time to File a Plan; Nonstandard Provisions; Objection to Confirmation; Effect of Confirmation; Modifying a Plan** |
| (a) FILING A CHAPTER 12 PLAN. The debtor may file a chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within the time prescribed by § 1221 of the Code. | **(a) Time to File a Chapter 12 Plan.** The debtor must file a Chapter 12 plan:<br>(1) with the petition; or<br>(2) within the time prescribed by § 1221. |
| (b) FILING A CHAPTER 13 PLAN. The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct. If a case is converted to chapter 13, a plan shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct. | **(b) Time to File a Chapter 13 Plan.**<br>(1) ***In General.*** The debtor must file a Chapter 13 plan with the petition or within 14 days after the petition is filed. The time to file ~~may~~ must not be extended except for cause and on notice as the court ~~directs~~orders.<br>(2) ***Case Converted to Chapter 13.*** If a case is converted to Chapter 13, the plan must be filed within 14 days after conversion. The time ~~may~~ must not be extended except for cause and on notice as the court ~~directs~~orders. |
| (c) FORM OF CHAPTER 13 PLAN. If there is an Official Form for a plan filed in a chapter 13 case, that form must be used unless a Local Form has been adopted in compliance with Rule 3015.1. With either the Official Form or a Local Form, a nonstandard provision is effective only if it is included in a section of the form designated for nonstandard provisions and is also identified in accordance with any other requirements of the form. As used in this rule and the Official Form or a Local Form, "nonstandard provision" means a provision not otherwise included in the Official or Local Form or deviating from it. | **(c) Form of a Chapter 13 Plan.**<br>(1) ***In General.*** In filing a Chapter 13 plan, the debtor must use Form 113, unless the court has adopted a local form under Rule 3015.1.<br>(2) ***Nonstandard Provision.*** With either form, a nonstandard provision is effective only if it is included in the section of the form that is designated for nonstandard provisions and is identified in accordance with any other requirements of the form. A nonstandard provision is one that is not included in the form or deviates from it. |

| ORIGINAL | REVISION |
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| (d) NOTICE. If the plan is not included with the notice of the hearing on confirmation mailed under Rule 2002, the debtor shall serve the plan on the trustee and all creditors when it is filed with the court. | **(d) Serving a Copy of the Plan.** If the plan was not included with the notice of a confirmation hearing mailed under Rule 2002, the debtor must serve the plan on the trustee and creditors when it is filed. |
| (e) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of the plan and any modification thereof filed under subdivision (a) or (b) of this rule. | **(e) Copy to the United States Trustee.** The clerk must promptly send to the United States trustee a copy of any plan filed under (a) or (b) or any modification of it. |
| (f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD FAITH IN THE ABSENCE OF AN OBJECTION. An objection to confirmation of a plan shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee, at least seven days before the date set for the hearing on confirmation, unless the court orders otherwise. An objection to confirmation is governed by Rule 9014. If no objection is timely filed, the court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on such issues. | **(f) Objection to Confirmation; Determining Good Faith When No Objection is Filed.**<br>(1) ***Serving an Objection.*** An entity that objects to a plan's confirmation ~~of a plan~~ must file and serve the objection on the debtor, trustee, and any other entity the court designates, and must send a copy to the United States trustee. Unless the court orders otherwise, the objection must be filed, served, and sent at least ~~seven~~ 7 days before the date set for the confirmation hearing. The objection is governed by Rule 9014.<br>(2) ***When No Objection Is Filed.*** If no objection is timely filed, the court may, without receiving evidence, determine that the plan has been proposed in good faith and not by any means forbidden by law. |
| (g) EFFECT OF CONFIRMATION. Upon the confirmation of a chapter 12 or chapter 13 plan:<br>(1) any determination in the plan made under Rule 3012 about the amount of a secured claim is binding on the holder of the claim, even if the holder files a contrary proof of claim or the debtor schedules that claim, and regardless of whether an objection to | **(g) Effect of Confirmation of a Chapter 12 or 13 Plan on the Amount of a Secured Claim; Terminating the Stay.**<br>(1) ***Secured Claim.*** When a plan is confirmed, the amount of a secured claim—determined in the plan under Rule 3012—becomes binding on the claim holder ~~of the claim~~. That is the effect even if the holder files a contrary proof of claim, the debtor |

| ORIGINAL | REVISION |
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| the claim has been filed; and<br><br>(2) any request in the plan to terminate the stay imposed by § 362(a), § 1201(a), or § 1301(a) is granted. | schedules that claim, or an objection to the claim is filed.<br><br>(2) ***Terminating the Stay.*** When a plan is confirmed, a request in the plan to terminate the stay imposed under § 362(a), § 1201(a), or § 1301(a) is granted. |
| (h) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to modify a plan under § 1229 or § 1329 of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification, or a summary thereof, shall be included with the notice. Any objection to the proposed modification shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. An objection to a proposed modification is governed by Rule 9014. | **(h) Modifying a Plan After It Is Confirmed.**<br><br>(1) ***Request to Modify a Plan After It Is Confirmed.*** A request to modify a confirmed plan under § 1229 or § 1329 must identify the proponent and include the proposed modification. Unless the court orders otherwise for creditors not affected by the modification, the clerk or the court's designee must:<br><br>(A) give the debtor, trustee, and creditors at least 21 days' notice, by mail, of the time to file objections and the date of any hearing;<br><br>(B) send a copy of the notice to the United States trustee; and<br><br>(C) include a copy or summary of the modification.<br><br>(2) ***Objecting to a Modification.*** Rule 9014 governs an objection to a proposed modification. An objection must be filed and served on:<br><br>• the debtor;<br><br>• the trustee; and<br><br>• any other entity the court designates.<br><br>A copy must also be sent to the United States trustee. |

**Committee Note**

The language of Rule 3015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3015.1. Requirements for a Local Form for Plans Filed in a Chapter 13 Case** | **Rule 3015.1 Requirements for a Local Form for a Chapter 13 Plan** |
| Notwithstanding Rule 9029(a)(1), a district may require that a Local Form for a plan filed in a chapter 13 case be used instead of an Official Form adopted for that purpose if the following conditions are satisfied:<br><br>(a) a single Local Form is adopted for the district after public notice and an opportunity for public comment;<br><br>(b) each paragraph is numbered and labeled in boldface type with a heading stating the general subject matter of the paragraph;<br><br>(c) the Local Form includes an initial paragraph for the debtor to indicate that the plan does or does not:<br><br>(1) contain any nonstandard provision;<br><br>(2) limit the amount of a secured claim based on a valuation of the collateral for the claim; or<br><br>(3) avoid a security interest or lien;<br><br>(d) the Local Form contains separate paragraphs for:<br><br>(1) curing any default and maintaining payments on a claim secured by the debtor's principal residence;<br><br>(2) paying a domestic-support obligation;<br><br>(3) paying a claim described in the final paragraph of § 1325(a) of the Bankruptcy Code; and<br><br>(4) surrendering property that secures a claim with a request that | As an exception to Rule 9029(a)(1), a district may require that a single local form be used for a ~~chapter~~ Chapter 13 plan instead of ~~Official~~ Form 113 if it:<br><br>(a) is adopted for the district after public notice and an opportunity for comment;<br><br>(b) numbers and labels each paragraph in boldface type with a heading that states its general subject matter;<br><br>(c) includes an opening paragraph for the debtor to indicate that the plan does or does not:<br><br>(1) contain a nonstandard provision;<br><br>(2) limit the amount of a secured claim based on a valuation of the collateral; or<br><br>(3) avoid a security interest or lien;<br><br>(d) contains separate paragraphs relating to:<br><br>(1) curing any default and maintaining payments on a claim secured by the debtor's principal residence;<br><br>(2) paying a domestic support obligation;<br><br>(3) paying a claim described in the final paragraph of § 1325(a); and<br><br>(4) surrendering property that secures a claim and requesting that the stay under § 362(a) or 1301(a) related to the property be terminated; and<br><br>(e) contains a final paragraph providing a place for:<br><br>(1) nonstandard provisions as defined in Rule 3015(c), with a warning that any nonstandard provision placed elsewhere ~~in the plan~~ is void; and |

| ORIGINAL | REVISION |
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| the stay under §§ 362(a) and 1301(a) be terminated as to the surrendered collateral; and<br><br>(e) the Local Form contains a final paragraph for:<br><br>(1) the placement of nonstandard provisions, as defined in Rule 3015(c), along with a statement that any nonstandard provision placed elsewhere in the plan is void; and<br><br>(2) certification by the debtor's attorney or by an unrepresented debtor that the plan contains no nonstandard provision other than those set out in the final paragraph. | (2) a certification by the debtor's attorney, or by an unrepresented debtor, that the plan does not contain any nonstandard provision except as set out in the final paragraph. |

**Committee Note**

The language of Rule 3015.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3016. Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case** | **Rule 3016. Chapter 9 or 11—Plan and Disclosure Statement** |
| (a) IDENTIFICATION OF PLAN. Every proposed plan and any modification thereof shall be dated and, in a chapter 11 case, identified with the name of the entity or entities submitting or filing it. | **(a) In General.** In a Chapter 9 or 11 case, every proposed plan or modification must be dated. In a Chapter 11 case, the plan or modification must also name the entity or entities proposing or filing it. |
| (b) DISCLOSURE STATEMENT. In a chapter 9 or 11 case, a disclosure statement, if required under § 1125 of the Code, or evidence showing compliance with § 1126(b) shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information under § 1125(f)(1). If the plan is intended to provide adequate information under § 1125(f)(1), it shall be so designated, and Rule 3017.1 shall apply as if the plan is a disclosure statement. | **(b) Filing a Disclosure Statement.**<br>(1) ***In General.*** In a Chapter 9 or 11 case, unless (2) applies, the disclosure statement, if required by § 1125—or evidence showing compliance with § 1126(b)—must be filed with the plan or at another time set by the court.<br>(2) ***Providing Information Under § 1125(f)(1).*** A plan intended to provide adequate information under § 1125(f)(1) must be so designated. Rule 3017.1 then applies as if the plan were a disclosure statement. |
| (c) INJUNCTION UNDER A PLAN. If a plan provides for an injunction against conduct not otherwise enjoined under the Code, the plan and disclosure statement shall describe in specific and conspicuous language (bold, italic, or underlined text) all acts to be enjoined and identify the entities that would be subject to the injunction. | **(c) Injunction in a Plan.** If the plan provides for an injunction against conduct not otherwise enjoined by the Code, the plan and disclosure statement must:<br>(1) describe in specific and conspicuous language (bold, italic, or underlined text) all acts to be enjoined; and<br>(2) identify the entities that would be subject to the injunction. |
| (d) STANDARD FORM SMALL BUSINESS DISCLOSURE STATEMENT AND PLAN. In a small business case or a case under subchapter V of chapter 11, the court may approve a disclosure statement and may confirm a plan that conform substantially to the appropriate Official Forms or other standard forms approved by the court. | **(d) Form of a Disclosure Statement and Plan in a Small Business Case or a Case Under Subchapter V of Chapter 11.** In a small business case or a case under Subchapter V of Chapter 11, the court may approve a disclosure statement that substantially conforms to Form 425B and confirm a plan that substantially conforms to Form 425A—or, in either instance, to a standard form approved by the court. |

**Committee Note**

The language of Rule 3016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3017. Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case** | **Rule 3017. Chapter 9 or 11—Hearing on a Disclosure Statement and Plan** |
| (a) HEARING ON DISCLOSURE STATEMENT AND OBJECTIONS. Except as provided in Rule 3017.1, after a disclosure statement is filed in accordance with Rule 3016(b), the court shall hold a hearing on at least 28 days' notice to the debtor, creditors, equity security holders and other parties in interest as provided in Rule 2002 to consider the disclosure statement and any objections or modifications thereto. The plan and the disclosure statement shall be mailed with the notice of the hearing only to the debtor, any trustee or committee appointed under the Code, the Securities and Exchange Commission and any party in interest who requests in writing a copy of the statement or plan. Objections to the disclosure statement shall be filed and served on the debtor, the trustee, any committee appointed under the Code, and any other entity designated by the court, at any time before the disclosure statement is approved or by an earlier date as the court may fix. In a chapter 11 reorganization case, every notice, plan, disclosure statement, and objection required to be served or mailed pursuant to this subdivision shall be transmitted to the United States trustee within the time provided in this subdivision. | **(a) Hearing on a Disclosure Statement; Objections.**<br>(1) ***Notice and Hearing.***<br>(A) *Notice.* Except as provided in Rule 3017.1 for a small business case, the court must hold a hearing on a disclosure statement filed under Rule 3016(b) and any objection or modification to it. The hearing must be held on at least 28 days' notice under Rule 2002(b) to:<br>• the debtor;<br>• creditors;<br>• equity security holders; and<br>• other parties in interest.<br>(B) *Limit on Sending the Plan and Disclosure Statement.* A copy of the plan and disclosure statement must be mailed with the notice of a hearing to:<br>• the debtor;<br>• any trustee or appointed committee;<br>• the Securities and Exchange Commission; and<br>• any party in interest that, in writing, requests a copy of the disclosure statement or plan. |

| ORIGINAL | REVISION |
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| | (2) ***Objecting to a Disclosure Statement.*** An objection to a disclosure statement must be filed and served before the disclosure statement is approved or by an earlier date the court sets. The objection must be served on:<br>• the debtor;<br>• the trustee;<br>• any appointed committee; and<br>• any other entity the court designates.<br>(3) ***Chapter 11—Copies to the United States Trustee.*** In a Chapter 11 case, a copy of every item required to be served or mailed under this Rule 3017(a) must also be sent to the United States trustee within the prescribed time. |
| (b) DETERMINATION ON DISCLOSURE STATEMENT. Following the hearing the court shall determine whether the disclosure statement should be approved. | **(b) Court Ruling on the Disclosure Statement.** After the hearing, the court must determine whether the disclosure statement should be approved. |
| (c) DATES FIXED FOR VOTING ON PLAN AND CONFIRMATION. On or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation. | **(c) Time to Accept or Reject a Plan and for the Confirmation Hearing.** At the time or before the disclosure statement is approved, the court:<br>(1) must set a deadline for the holders of claims and interests to accept or reject the plan; and<br>(2) may set a date for a confirmation hearing. |

| ORIGINAL | REVISION |
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| (d) TRANSMISSION AND NOTICE TO UNITED STATES TRUSTEE, CREDITORS, AND EQUITY SECURITY HOLDERS. Upon approval of a disclosure statement,—[2] except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders—the debtor in possession, trustee, proponent of the plan, or clerk as the court orders shall mail to all creditors and equity security holders, and in a chapter 11 reorganization case shall transmit to the United States trustee,<br><br>(1) the plan or a court-approved summary of the plan;<br><br>(2) the disclosure statement approved by the court;<br><br>(3) notice of the time within which acceptances and rejections of the plan may be filed; and<br><br>(4) any other information as the court may direct, including any court opinion approving the disclosure statement or a court-approved summary of the opinion.<br><br>In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in accordance with Rule 2002(b), and a form of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan. If the court opinion is not transmitted or only a summary of the plan is transmitted, the | **(d) Hearing on Confirmation.**<br><br>(1) ~~***Transmitting***~~ ***Sending the Plan and Related Documents.***<br><br>(A) *In General.* After the disclosure statement has been approved, the court must order the debtor in possession, the trustee, the plan proponent, or the clerk to mail the following items to creditors and equity security holders and, in a Chapter 11 case, to send a copy of each to the United States trustee:<br><br>(i) the court-approved disclosure statement;<br><br>(ii) the plan or a court-approved summary of it;<br><br>(iii) a notice of the time to file acceptances and rejections of the plan; and<br><br>(iv) any other information as the court ~~directs~~orders—including any opinion approving the disclosure statement or a court-approved summary of the opinion.<br><br>(B) *Exception.* The court may vary the requirements for an unimpaired class of creditors or equity security holders. |

[2] So in original. The comma probably should not appear.

| ORIGINAL | REVISION |
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| court opinion or the plan shall be provided on request of a party in interest at the plan proponent'sexpense. If the court orders that the disclosure statement and the plan or a summary of the plan shall not be mailedto any unimpaired class, notice that the class is designated in the plan as unimpaired and notice of the name and address of the person from whom the plan or summary of the plan and disclosure statement may be obtained upon request and at the plan proponent's expense, shall be mailed tomembers of the unimpaired class together with the notice of the time fixed for filing objections to and the hearing on confirmation. For the purposes of this subdivision, creditors and equity security holders shall includeholders of stock, bonds, debentures, notes, and other securities of record onthe date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing. | (2) ***Time to Object to a Plan; Notice of the Confirmation Hearing.*** Notice of the time to file an objection to a plan's confirmation and the date of the hearing on confirmation must be mailed to creditors and equity security holders in accordance with Rule 2002(b). A ballot that conforms to Form 314 must also be mailed to creditors and equity security holders who are entitled to vote on the plan. If the court's opinion is not sent (or only a summary of the plan was sent), a party in interest may request a copy of the opinion or plan, which must be provided at the plan proponent's expense.<br><br>(3) ***Notice to Unimpaired Classes.*** If the court orders that the disclosure statement and plan (or the plan summary) not be mailed to an unimpaired class, a notice that the class has been designated ~~in the plan~~ as unimpaired must be mailed to the class members. The notice must show:<br><br>(A) the name and address of the person from whom the plan (or summary) and the disclosure statement may be obtained at the plan proponent's expense;<br><br>(B) the time to file an objection to the plan's confirmation; and<br><br>(C) the date of the confirmation hearing. |

| ORIGINAL | REVISION |
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| | (4) ***Definition of "Creditors" and "Equity Security Holders."*** In this Rule 3017(d), "creditors" and "equity security holders" include record holders of stock, bonds, debentures, notes, and other securities on the date the order approving the disclosure statement is entered—or another date the court sets for cause and after notice and a hearing. |
| (e) TRANSMISSION TO BENEFICIAL HOLDERS OF SECURITIES. At the hearing held pursuant to subdivision (a) of this rule, the court shall consider the procedures for transmitting the documents and information required by subdivision (d) of this rule to beneficial holders of stock, bonds, debentures, notes, and other securities, determine the adequacy of the procedures, and enter any orders the court deems appropriate. | **(e) Procedure for Sending Information to Beneficial Holders of Securities.** At the hearing under (a), the court must:<br>(1) determine the adequacy of the procedures for sending the documents and information listed in (d)(1) to beneficial holders of stock, bonds, debentures, notes, and other securities; and<br>(2) issue any appropriate orders. |
| (f) NOTICE AND TRANSMISSION OF DOCUMENTS TO ENTITIES SUBJECT TO AN INJUNCTION UNDER A PLAN. If a plan provides for an injunction against conduct not otherwise enjoined under the Code and an entity that would be subject to the injunction is not a creditor or equity security holder, at the hearing held under Rule 3017(a), the court shall consider procedures for providing the entity with:<br>(1) at least 28 days' notice of the time fixed for filing objections and the hearing on confirmation of the plan containing the information described in Rule 2002(c)(3); and to the extent feasible, a copy of the plan and disclosure statement. | **(f) Sending Information to Entities Subject to an Injunction.**<br>(1) ***Timing of the Notice.*** This Rule 3017(f) applies if, under a plan, an entity that is not a creditor or equity security holder is subject to an injunction against conduct not otherwise enjoined by the Code. At the hearing under (a), the court must consider procedures to provide the entity with at least 28 days' notice of:<br>(A) the time to file an objection; and<br>(B) the date of the confirmation hearing.<br>(2) ***Contents of the Notice.*** The notice must:<br>(A) provide the information required by Rule 2002(c)(3); and<br>(B) if feasible, include a copy of the plan and disclosure statement. |

**Committee Note**

The language of Rule 3017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3017.1. Court Consideration of Disclosure Statement in a Small Business Case or in a Case Under Subchapter V of Chapter 11** | **Rule 3017.1. Disclosure Statement in a Small Business Case or a Case Under Subchapter V of Chapter 11** |
| (a) CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT. In a small business case or in a case under subchapter V of chapter 11 in which the court has ordered that § 1125 applies, the court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement filed in accordance with Rule 3016. On or before conditional approval of the disclosure statement, the court shall:<br>(1) fix a time within which the holders of claims and interests may accept or reject the plan;<br>(2) fix a time for filing objections to the disclosure statement;<br>(3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and<br>(4) fix a date for the hearing on confirmation. | **(a) Conditionally Approving a Disclosure Statement.** This section (a) applies in~~In~~ a small business case or in a case under Subchapter V of Chapter 11 in which the court has ordered that § 1125 applies. ~~the~~ The court may, on motion of the plan proponent or on its own, conditionally approve a disclosure statement filed under Rule 3016. On or before doing so, the court must:<br>(1) set the time within which the claim holders and interest holders may accept or reject the plan;<br>(2) set the time to file an objection to the disclosure statement;<br>(3) if a timely objection is filed, set the date to hold the hearing on final approval of the disclosure statement~~ if a timely objection is filed~~; and<br>(4) set a date for the confirmation hearing. |
| (b) APPLICATION OF RULE 3017. Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved disclosure statement. Rule 3017(d) applies to a conditionally approved disclosure statement, except that conditional approval is considered approval of the disclosure statement for the purpose of applying Rule 3017(d). | **(b)** ***Effect of a Conditional Approval.*** Rule 3017(a)–(c) and (e) do not apply to a conditionally approved disclosure statement. But conditional approval is considered approval in applying Rule 3017(d). |

| ORIGINAL | REVISION |
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| (c) FINAL APPROVAL.<br><br>(1) *Notice.* Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Rule 2002 and may be combined with notice of the hearing on confirmation of the plan.<br><br>(2) *Objections.* Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix.<br><br>(3) *Hearing.* If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan. | **(c) Time to File an Objection; Date of a Hearing.**<br><br>(1) ***Notice.*** Notice must be given under Rule 2002(b) of the time to file an objection and the date of a hearing to consider final approval of the disclosure statement. The notice may be combined with notice of the confirmation hearing.<br><br>(2) ***Time to File an Objection to the Disclosure Statement.*** An objection to the disclosure statement must be filed before ~~the disclosure statement~~it is finally approved or by an earlier date set by the court. The objection must be served on:<br><br>• the debtor;<br>• the trustee;<br>• any appointed committee; and<br>• any other entity the court designates.<br><br>A copy must also be sent to the United States trustee.<br><br>(3) ***Hearing on an Objection to the Disclosure Statement.*** If a timely objection to the disclosure statement is filed, the court must hold a hearing on final approval either before or combined with the confirmation hearing. |

**Committee Note**

The language of Rule 3017.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3017.2. Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement** | **Rule 3017.2. Setting Dates in a Case Under Subchapter V of Chapter 11 in Which There Is No Disclosure Statement** |
| In a case under subchapter V of chapter 11 in which § 1125 does not apply, the court shall:<br>(a) fix a time within which the holders of claims and interests may accept or reject the plan;<br>(b) fix a date on which an equity security holder or creditor whose claim is based on a security must be the holder of record of the security in order to be eligible to accept or reject the plan;<br>(c) fix a date for the hearing on confirmation; and<br>(d) fix a date for transmitting the plan, notice of the time within which the holders of claims and interests may accept or reject it, and notice of the date for the hearing on confirmation. | In a case under Subchapter V of Chapter 11 in which § 1125 does not apply, the court must set:<br>(a) a time within which the holders of claims and interests may accept or reject the plan;<br>(b) a date on which an equity security holder or a creditor whose claim is based on a security must be the record holder of the security in order to be eligible to accept or reject the plan;<br>(c) a date for the hearing on confirmation; and<br>(d) a date for sending the plan, notice of the time within which the holders of claims and interests may accept or reject it, and notice of the date for the hearing on confirmation. |

**Committee Note**

The language of Rule 3017.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3018. Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case** | **Rule 3018. Chapter 9 or 11—Accepting or Rejecting a Plan** |
| (a) ENTITIES ENTITLED TO ACCEPT OR REJECT PLAN; TIME FOR ACCEPTANCE OR REJECTION. A plan may be accepted or rejected in accordance with § 1126 of the Code within the time fixed by the court pursuant to Rule 3017, 3017.1, or 3017.2. Subject to subdivision (b) of this rule, an equity security holder or creditor whose claim is based on a security of record shall not be entitled to accept or reject a plan unless the equity security holder or creditor is the holder of record of the security on the date the order approving the disclosure statement is entered or on another date fixed by the court under Rule 3017.2, or fixed for cause after notice and a hearing. For cause shown, the court after notice and hearing may permit a creditor or equity security holder to change or withdraw an acceptance or rejection. Notwithstanding objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan. | **(a) In General.**<br>(1) ***Who May Accept or Reject a Plan.*** Within the time set by the court under Rule 3017, 3017.1, or 3017.2, a claim holder or equity security holder may accept or reject a Chapter 9 or Chapter 11 plan under § 1126.<br>(2) ***Claim Based on a Security of Record.*** Subject to (b), an equity security holder or creditor whose claim is based on a security of record may accept or reject a plan only if the equity security holder or creditor is the holder of record:<br>(A) on the date the order approving the disclosure statement is entered; or<br>(B) on another date the court sets:<br>(i) under Rule 3017.2; or<br>(ii) after notice and a hearing and for cause.<br>(3) ***Changing or Withdrawing an Acceptance or Rejection.*** After notice and a hearing and for cause, the court may permit a creditor or equity security holder to change or withdraw an acceptance or rejection.<br>(4) ***Temporarily Allowing a Claim or Interest.*** Even if an objection to a claim or interest has been filed, the court may, after notice and a hearing, temporarily allow a claim or interest in an amount that the court considers proper for voting to accept or reject a plan. |
| (b) ACCEPTANCES OR REJECTIONS OBTAINED BEFORE PETITION. An equity security holder or creditor whose claim is based on a security of record who accepted or | **(b) Treatment of Acceptances or Rejections Obtained Before the Petition Was Filed.**<br>(1) ***Acceptance or Rejection by a Nonholder of Record.*** An equity security holder or creditor who |

| ORIGINAL | REVISION |
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| rejected the plan before the commencement of the case shall not be deemed to have accepted or rejected the plan pursuant to § 1126(b) of the Code unless the equity security holder or creditor was the holder of record of the security on the date specified in the solicitation of such acceptance or rejection for the purposes of such solicitation. A holder of a claim or interest who has accepted or rejected a plan before the commencement of the case under the Code shall not be deemed to have accepted or rejected the plan if the court finds after notice and hearing that the plan was not transmitted to substantially all creditors and equity security holders of the same class, that an unreasonably short time was prescribed for such creditors and equity security holders to accept or reject the plan, or that the solicitation was not in compliance with § 1126(b) of the Code. | accepted or rejected a plan before the petition was filed will not be considered to have accepted or rejected the plan under § 1126(b) if the equity security holder or creditor:<br>(A) has a claim or interest based on a security of record; and<br>(B) was not the security's holder of record on the date specified in the solicitation of the acceptance or rejection.<br>(2) ***Defective Solicitations.*** A holder of a claim or interest who accepted or rejected a plan before the petition was filed will not be considered to have accepted or rejected the plan if the court finds, after notice and a hearing, that:<br>(A) the plan was not sent to substantially all creditors and equity security holders of the same class;<br>(B) an unreasonably short time was prescribed for those creditors and equity security holders to accept or reject the plan; or<br>(C) the solicitation did not comply with § 1126(b). |
| (c) FORM OF ACCEPTANCE OR REJECTION. An acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or an authorized agent, and conform to the appropriate Official Form. If more than one plan is transmitted pursuant to Rule 3017, an acceptance or rejection may be filed by each creditor or equity security holder for any number of plans transmitted and if acceptances are filed for more than one plan, the creditor or equity security holder may indicate a preference or | **(c) Form for Accepting or Rejecting a Plan; Procedure When More Than One Plan Is Filed.**<br>(1) ***Form.*** An acceptance or rejection of a plan must:<br>(A) be in writing;<br>(B) identify the plan or plans;<br>(C) be signed by the creditor or equity security holder—or an authorized agent; and<br>(D) conform to Form 314. |

| ORIGINAL | REVISION |
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| preferences among the plans so accepted. | (2) ***When More Than One Plan Is Distributed.*** If more than one plan is ~~transmitted~~ sent under Rule 3017, a creditor or equity security holder may accept or reject one or more plans and may indicate preferences among ~~the plans~~those accepted. |
| (d) ACCEPTANCE OR REJECTION BY PARTIALLY SECURED CREDITOR. A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim shall be entitled to accept or reject a plan in both capacities. | **(d) Partially Secured Creditor.** If a creditor's claim has been allowed in part as a secured claim and in part as an unsecured claim, the creditor may accept or reject a plan in both capacities. |

**Committee Note**

The language of Rule 3018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3019. Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case** | **Rule 3019. Chapter 9 or 11—Modifying a Plan** |
| (a) MODIFICATION OF PLAN BEFORE CONFIRMATION. In a chapter 9 or chapter 11 case, after a plan has been accepted and before its confirmation, the proponent may file a modification of the plan. If the court finds after hearing on notice to the trustee, any committee appointed under the Code, and any other entity designated by the court that the proposed modification does not adversely change the treatment of the claim of any creditor or the interest of any equity security holder who has not accepted in writing the modification, it shall be deemed accepted by all creditors and equity security holders who have previously accepted the plan. | **(a) Modifying a Plan Before Confirmation.** In a Chapter 9 or 11 case, after a plan has been accepted and before confirmation, the plan proponent may file a modification. The modification is considered accepted by any creditor or equity security holder who has accepted it in writing. For others who have not accepted it in writing but have accepted the plan, the modification is considered accepted if, after notice and a hearing, the court finds that it does not adversely change the treatment of their claims or interests. The notice must be served on:<br>• the trustee;<br>• any appointed committee; and<br>• any other entity the court designates. |
| (b) MODIFICATION OF PLAN AFTER CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If the debtor is an individual, a request to modify the plan under § 1127(e) of the Code is governed by Rule 9014. The request shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed to file objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee, together with a copy of the proposed modification. | **(b) Modifying a Plan After Confirmation in an Individual Debtor's Chapter 11 Case.**<br>(1) ***In General.*** When a plan in an individual debtor's Chapter 11 case has been confirmed, a request to modify it under § 1127(e) is governed by Rule 9014. The request must identify the proponent, and the proposed modification must be filed with it.<br>(2) ***Time to File an Objection; Service.***<br>(A) *Time.* Unless the court orders otherwise for creditors who are not affected by the proposed modification, the clerk—or the court's designee—must give the debtor, trustee, and creditors at least 21 days' notice, by mail, of:<br>(i) the time to file an objection; and |

| ORIGINAL | REVISION |
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| Any objection to the proposed modification shall be filed and served on the debtor, the proponent of the modification, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. | (ii) if an objection is filed, the date of a hearing to consider the proposed modification.<br><br>(B) *Service.* Any objection must be served on:<br><br>• the debtor;<br><br>• the entity proposing the modification;<br><br>• the trustee; and<br><br>• any other entity the court designates.<br><br>A copy of the notice, modification, and objection must also be sent to the United States trustee. |
| (c) MODIFICATION OF PLAN AFTER CONFIRMATION IN A SUBCHAPTER V CASE. In a case under subchapter V of chapter 11, a request to modify the plan under § 1193(b) or (c) of the Code is governed by Rule 9014, and the provisions of this Rule 3019(b) apply. | **(c) Modifying a Plan After Confirmation in a Case Under Subchapter V of Chapter 11.** In a case under Subchapter V of Chapter 11, Rule 9014 governs a request to modify the plan under § 1193(b) or (c) ~~is governed by Rule 9014~~, and ~~the provisions of~~ (b) ~~in~~ of this rule ~~apply~~applies. |

**Committee Note**

The language of Rule 3019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3020. Deposit; Confirmation of Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case** | **Rule 3020. In a Chapter 11 Case, Depositing Funds Before the Plan is Confirmed; Confirmation in a Chapter 9 or 11 Case** |
| (a) DEPOSIT. In a chapter 11 case, prior to entry of the order confirming the plan, the court may order the deposit with the trustee or debtor in possession of the consideration required by the plan to be distributed on confirmation. Any money deposited shall be kept in a special account established for the exclusive purpose of making the distribution. | **(a) Chapter 11—Depositing Funds Before the Plan is Confirmed.** Before a plan is confirmed in a Chapter 11 case, the court may order that the consideration required to be distributed upon confirmation be deposited with the trustee or debtor in possession. Any funds deposited must be kept in a special account established for the sole purpose of making the distribution. |
| (b) OBJECTION TO AND HEARING ON CONFIRMATION IN A CHAPTER 9 OR CHAPTER 11 CASE.<br><br>(1) *Objection.* An objection to confirmation of the plan shall be filed and served on the debtor, the trustee, the proponent of the plan, any committee appointed under the Code, and any other entity designated by the court, within a time fixed by the court. Unless the case is a chapter 9 municipality case, a copy of every objection to confirmation shall be transmitted by the objecting party to the United States trustee within the time fixed for filing objections. An objection to confirmation is governed by Rule 9014.<br><br>(2) *Hearing.* The court shall rule on confirmation of the plan after notice and hearing as provided in Rule 2002. If no objection is timely filed, the court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on such issues. | **(b) Chapter 9 or 11—Objecting to Confirmation; Confirmation Hearing.**<br><br>(1) ***Objecting to Confirmation.*** In a Chapter 9 or 11 case, an objection to confirmation is governed by Rule 9014. The objection must be filed and served within the time set by the court and be served on:<br>• the debtor;<br>• the trustee;<br>• the plan proponent;<br>• any appointed committee; and<br>• any other entity the court designates.<br><br>(2) ***Copy to the United States Trustee.*** In a Chapter 11 case, the objecting party must send a copy of the objection to the United States trustee within the time set to file an objection.<br><br>(3) ***Hearing on the Objection; Procedure If No Objection Is Filed.*** After notice and a hearing as provided in Rule 2002, the court must rule on confirmation. If no objection is timely filed, the court may, without receiving |

| ORIGINAL | REVISION |
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| | evidence, determine that the plan was proposed in good faith and not by any means forbidden by law. |
| (c) ORDER OF CONFIRMATION.<br><br>(1) The order of confirmation shall conform to the appropriate Official Form. If the plan provides for an injunction against conduct not otherwise enjoined under the Code, the order of confirmation shall (1) describe in reasonable detail all acts enjoined; (2) be specific in its terms regarding the injunction; and (3) identify the entities subject to the injunction.<br><br>(2) Notice of entry of the order of confirmation shall be mailed promptly to the debtor, the trustee, creditors, equity security holders, other parties in interest, and, if known, to any identified entity subject to an injunction provided for in the plan against conduct not otherwise enjoined under the Code.<br><br>(3) Except in a chapter 9 municipality case, notice of entry of the order of confirmation shall be transmitted to the United States trustee as provided in Rule 2002(k). | **(c) Confirmation Order.**<br><br>(1) ***Form of the Order; Injunctive Relief.*** A confirmation order must conform to Form 315. If the plan provides for an injunction against conduct not otherwise enjoined under the Code, the order must:<br><br>(A) describe the acts enjoined in reasonable detail;<br><br>(B) be specific in its terms regarding the injunction; and<br><br>(C) identify the entities subject to the injunction.<br><br>(2) ***Notice of Confirmation.*** Notice of entry of a confirmation order must be promptly mailed to:<br><br>• the debtor;<br><br>• the trustee;<br><br>• creditors;<br><br>• equity security holders;<br><br>• other parties in interest; and<br><br>• if known, identified entities subject to an injunction described in (1).<br><br>(3) ***Copy to the United States Trustee.*** In a Chapter 11 case, a copy of the order must be sent to the United States trustee under Rule 2002(k). |
| (d) RETAINED POWER. Notwithstanding the entry of the order of confirmation, the court may issue any other order necessary to administer the estate. | **(d) Retained Power to Issue Future Orders Relating to Administration.** After a plan is confirmed, the court may continue to issue orders needed to administer the estate. |

| ORIGINAL | REVISION |
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| (e) STAY OF CONFIRMATION ORDER. An order confirming a plan is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise. | **(e) Staying a Confirmation Order.** Unless the court orders otherwise, a confirmation order is stayed for 14 days after its entry. |

**Committee Note**

The language of Rule 3020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3021. Distribution Under Plan** | **Rule 3021. Distributing Funds Under a Plan** |
| Except as provided in Rule 3020(e), after a plan is confirmed, distribution shall be made to creditors whose claims have been allowed, to interest holders whose interests have not been disallowed, and to indenture trustees who have filed claims under Rule 3003(c)(5) that have been allowed. For purposes of this rule, creditors include holders of bonds, debentures, notes, and other debt securities, and interest holders include the holders of stock and other equity securities, of record at the time of commencement of distribution, unless a different time is fixed by the plan or the order confirming the plan. | **(a) In General.** After confirmation and when any stay under Rule 3020(e) expires, payments under the plan must be distributed to:<br>• creditors whose claims have been allowed;<br>• interest holders whose interests have not been disallowed; and<br>• indenture trustees whose claims under Rule 3003(c)(5) have been allowed.<br>**(b) Definition of "Creditors" and "Interest Holders."** In this Rule 3021:<br>(1) "creditors" include record holders of bonds, debentures, notes, and other debt securities as of the initial distribution date, unless the plan or confirmation order states a different date; and<br>(2) "interest holders" include record holders of stock and other equity securities as of the initial distribution date, unless the plan or confirmation order states a different date. |

**Committee Note**

The language of Rule 3021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 3022. Final Decree in Chapter 11 Reorganization Case** | **Rule 3022. Chapter 11—Final Decree** |
| After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case. | After the estate is fully administered in a Chapter 11 case, the court must, on its own or on a party in interest's motion, enter a final decree closing the case. |

**Committee Note**

The language of Rule 3022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 4000 Series

| ORIGINAL | REVISION |
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| PART IV—THE DEBTOR: DUTIES AND BENEFITS | **PART IV. THE DEBTOR'S DUTIES AND BENEFITS** |
| **Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements** | **Rule 4001. Relief from the Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Using Cash Collateral; Obtaining Credit; Various Agreements** |
| (a) RELIEF FROM STAY; PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY.<br><br>(1) *Motion.* A motion for relief from an automatic stay provided by the Code or a motion to prohibit or condition the use, sale, or lease of property pursuant to § 363(e) shall be made in accordance with Rule 9014 and shall be served on any committee elected pursuant to § 705 or appointed pursuant to § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed pursuant to § 1102, on the creditors included on the list filed pursuant to Rule 1007(d), and on such other entities as the court may direct.<br><br>(2) *Ex Parte Relief.* Relief from a stay under § 362(a) or a request to prohibit or condition the use, sale, or lease of property pursuant to § 363(e) may be granted without prior notice only if (A) it clearly appears from specific facts shown by affidavit or by a verified motion that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party or the attorney for the adverse party can be heard in opposition, and<br><br>(B) the movant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the | **(a) Relief from the Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property.**<br><br>(1) ***Motion.*** A motion under § 362(d) for relief from the automatic stay—or a motion under § 363(e) to prohibit or condition the use, sale, or lease of property—must comply with Rule 9014. The motion must be served on:<br><br>(A) the following, as applicable:<br><br>• a committee elected under § 705 or appointed under § 1102;<br><br>• the committee's authorized agent; or<br><br>• the creditors included on the list filed under Rule 1007(d) if the case is a Chapter 9 or Chapter 11 case and no committee of unsecured creditors has been appointed under § 1102; and<br><br>(B) any other entity the court designates.<br><br>(2) ***Relief Without Notice.*** Relief from a stay under § 362(a)—or a request under § 363(e) to prohibit or condition the use, sale, or lease of property—may be granted without prior notice only if:<br><br>(A) specific facts—shown by either an affidavit or a verified motion— |

| ORIGINAL | REVISION |
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| reasons why notice should not be required. The party obtaining relief under this subdivision and § 362(f) or § 363(e) shall immediately give oral notice thereof to the trustee or debtor in possession and to the debtor and forthwith mail or otherwise transmit to such adverse party or parties a copy of the order granting relief. On two days notice to the party who obtained relief from the stay without notice or on shorter notice to that party as the court may prescribe, the adverse party may appear and move reinstatement of the stay or reconsideration of the order prohibiting or conditioning the use, sale, or lease of property. In that event, the court shall proceed expeditiously to hear and determine the motion.<br><br>(3) *Stay of Order.* An order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise. | clearly demonstrate that the movant will suffer immediate and irreparable injury, loss, or damage before the adverse party or its attorney can be heard in opposition; and<br><br>(B) the movant's attorney certifies to the court in writing what efforts, if any, have been made to give notice and why it should not be required.<br><br>(3) ***Notice of Relief; Motion for Reinstatement or Reconsideration.***<br><br>(A) *Notice of Relief.* A party who obtains relief under (2) and under § 362(f) or § 363(e) must:<br><br>(i) immediately give oral notice both to the debtor and to the trustee or the debtor in possession; and<br><br>(ii) promptly send them a copy of the order granting relief.<br><br>(B) *Motion for Reinstatement or Reconsideration.* On 2 days' notice to the party who obtained relief under (2)—or on shorter notice as the court may order—the adverse party may move to reinstate the stay or reconsider the order prohibiting or conditioning the use, sale, or lease of property. The court must proceed expeditiously to hear and decide the motion.<br><br>(4) ***Stay of an Order Granting Relief from the Automatic Stay.*** Unless the court orders otherwise, an order granting a motion for relief from the automatic stay under (1) is stayed for 14 days after it is entered. |

| ORIGINAL | REVISION |
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| (b) USE OF CASH COLLATERAL.<br><br>(1) *Motion; Service.*<br><br>(A) *Motion.* A motion for authority to use cash collateral shall be made in accordance with Rule 9014 and shall be accompanied by a proposed form of order.<br><br>(B) *Contents.* The motion shall consist of or (if the motion is more than five pages in length) begin with a concise statement of the relief requested, not to exceed five pages, that lists or summarizes, and sets out the location within the relevant documents of, all material provisions, including:<br><br>(i) the name of each entity with an interest in the cash collateral;<br><br>(ii) the purposes for the use of the cash collateral;<br><br>(iii) the material terms, including duration, of the use of the cash collateral; and<br><br>(iv) any liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral or, if no additional adequate protection is proposed, an explanation of why each entity's interest is adequately protected.<br><br>(C) *Service.* The motion shall be served on: (1) any entity with an interest in the cash collateral; (2) any committee elected under § 705 or appointed under § 1102 of the Code, or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, the | **(b) Using Cash Collateral.**<br><br>(1) ***Motion; Contents; Service.***<br><br>(A) *Motion.* A motion for authorization to use cash collateral must comply with Rule 9014 and must be accompanied by a proposed form of order.<br><br>(B) *Contents.* The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must list or summarize all material provisions (citing their locations in the relevant documents), including:<br><br>• the name of each entity with an interest in the cash collateral;<br><br>• how it will be used;<br><br>• the material terms of its use, including duration; and<br><br>• all liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral—or, if no such protection is proposed, an explanation of how each entity's interest is adequately protected.<br><br>(C) *Service.* The motion must be served on:<br><br>• each entity with an interest in the cash collateral;<br><br>• all those who must be served under (a)(1)(A); and<br><br>• any other entity the court designates. |

| ORIGINAL | REVISION |
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| creditors included on the list filed under Rule 1007(d); and (3) any other entity that the court directs.<br><br>(2) *Hearing.* The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.<br><br>(3) *Notice.* Notice of hearing pursuant to this subdivision shall be given to the parties on whom service of the motion is required by paragraph (1) of this subdivision and to such other entities as the court may direct. | (2) ***Hearings; Notice.***<br><br>(A) *Preliminary and Final Hearings.* The court may begin a final hearing on the motion no earlier than 14 days after it has been served. If the motion so requests, the court may conduct a preliminary hearing before that 14-day period ends. After a preliminary hearing, the court may authorize using only the cash collateral necessary to avoid immediate and irreparable harm to the estate pending a final hearing.<br><br>(B) *Notice.* Notice of a hearing must be given to the parties who must be served with the motion under (1)(C) and to any other entity the court designates. |
| (c) OBTAINING CREDIT.<br><br>(1) *Motion; Service.*<br><br>(A) *Motion.* A motion for authority to obtain credit shall be made in accordance with Rule 9014 and shall be accompanied by a copy of the credit agreement and a proposed form of order.<br><br>(B) *Contents.* The motion shall consist of or (if the motion is more than five pages in length) begin with a concise statement of the relief requested, not to exceed five pages, that lists or summarizes, and sets out the location within the relevant documents of, all material provisions of the proposed credit agreement and form of order, including interest rate, maturity, events of default, liens, borrowing limits, and borrowing conditions. If the proposed credit agreement or form of order | **(c) Obtaining Credit.**<br><br>(1) ***Motion; Content~~s~~; Service.***<br><br>(A) *Motion.* A motion for authorization to obtain credit must comply with Rule 9014 and must be accompanied by a copy of the credit agreement and a proposed form of order.<br><br>(B) *Content~~s~~.* The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must list or summarize all material provisions of the credit agreement and form of order (citing their locations in the relevant documents), including interest rates, maturity dates, default provisions, liens, and borrowing limits and conditions. If the credit agreement or form of |

| ORIGINAL | REVISION |
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| includes any of the provisions listed below, the concise statement shall also: briefly list or summarize each one; identify its specific location in the proposed agreement and form of order; and identify any such provision that is proposed to remain in effect if interim approval is granted, but final relief is denied, as provided under Rule 4001(c)(2). In addition, the motion shall describe the nature and extent of each provision listed below:<br><br>(i) a grant of priority or a lien on property of the estate under § 364(c) or (d);<br><br>(ii) the providing of adequate protection or priority for a claim that arose before the commencement of the case, including the granting of a lien on property of the estate to secure the claim, or the use of property of the estate or credit obtained under § 364 to make cash payments on account of the claim;<br><br>(iii) a determination of the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien securing the claim;<br><br>(iv) a waiver or modification of Code provisions or applicable rules relating to the automatic stay;<br><br>(v) a waiver or modification of any entity's authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or request authority to obtain credit under § 364; | order includes any of the provisions listed below in (i)–(xi), the concise statement must also list or summarize each one, describe its nature and extent, cite its location in the proposed agreement and form of order, and identify any that would remain effective if interim approval were to be granted but final relief denied under (2). The provisions are:<br><br>(i) a grant of priority or a lien on property of the estate under § 364(c) or (d);<br><br>(ii) the providing of adequate protection or priority for a claim that arose before the case commenced—including a lien on property of the estate, or ~~the~~ its use~~, of property of the estate~~ or of credit obtained under § 364 to make cash payments on the claim;<br><br>(iii) a determination of the validity, enforceability, priority, or amount of a claim that arose before the case commenced, or of any lien securing the claim;<br><br>(iv) a waiver or modification of Code provisions or applicable rules regarding the automatic stay;<br><br>(v) a waiver or modification of an entity's right to file a plan, seek to extend the time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or |

| ORIGINAL | REVISION |
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| (vi) the establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order;<br><br>(vii) a waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien;<br><br>(viii) a release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;<br><br>(ix) the indemnification of any entity;<br><br>(x) a release, waiver, or limitation of any right under § 506(c); or<br><br>(xi) the granting of a lien on any claim or cause of action arising under §§ 544,[1] 545, 547, 548, 549, 553(b), 723(a), or 724(a).<br><br>(C) *Service.* The motion shall be served on: (1) any committee elected under § 705 or appointed under § 1102 of the Code, or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and (2) on any other entity that the court directs. | request authorization to obtain credit under § 364;<br><br>(vi) the establishment of deadlines for filing a plan of reorganization, approving a disclosure statement, holding a hearing on confirmation, or entering a confirmation order;<br><br>(vii) a waiver or modification of ~~the applicability of~~applicable nonbankruptcy law regarding perfecting or enforcing a lien on property of the estate;<br><br>(viii) a release, waiver, or limitation on a claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;<br><br>(ix) the indemnification of any entity;<br><br>(x) a release, waiver, or limitation of any right under § 506(c); or<br><br>(xi) the granting of a lien on a claim or cause of action arising under § 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a).<br><br>(C) *Service.* The motion must be served on all those who must be served under (a)(1)(A) and any other entity the court designates.<br><br>(2) ***Hearings; Notice.***<br><br>(A) *Preliminary and Final Hearings.* The court may begin a final hearing on the motion no earlier than 14 days after it has been served. If the |

[1] So in original. Probably should be only one section symbol.

| ORIGINAL | REVISION |
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| (2) *Hearing*. The court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 14-day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.<br><br>(3) *Notice*. Notice of hearing pursuant to this subdivision shall be given to the parties on whom service of the motion is required by paragraph (1) of this subdivision and to such other entities as the court may direct.<br><br>(4) *Inapplicability in a Chapter 13 Case*. This subdivision (c) does not apply in a chapter 13 case. | motion so requests, the court may conduct a preliminary hearing before that 14-day period ends. After a preliminary hearing, the court may authorize obtaining credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.<br><br>(B) *Notice*. Notice of a hearing must be given to the parties who must be served with the motion under (1)(C) and to any other entity the court designates.<br><br>(3) ***Inapplicability in a Chapter 13 Case.*** This subdivision (c) does not apply in a ~~chapter~~ Chapter 13 case. |
| (d) AGREEMENT RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT.<br><br>(1) *Motion; Service.*<br><br>(A) *Motion*. A motion for approval of any of the following shall be accompanied by a copy of the agreement and a proposed form of order:<br><br>(i) an agreement to provide adequate protection;<br><br>(ii) an agreement to prohibit or condition the use, sale, or lease of property;<br><br>(iii) an agreement to modify or terminate the stay provided | **(d) Various Agreements: Relief from the Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Providing Adequate Protection; Using Cash Collateral; or Obtaining Credit.**<br><br>(1) ***Motion; Content~~s~~; Service.***<br><br>(A) *Motion*. A motion to approve any of the following must be accompanied by a copy of the agreement and a proposed form of order:<br><br>(i) an agreement to provide adequate protection;<br><br>(ii) an agreement to prohibit or condition the use, sale, or lease of property;<br><br>(iii) an agreement to modify or terminate the stay provided for in § 362; |

| ORIGINAL | REVISION |
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| for in § 362;<br><br>(iv) an agreement to use cash collateral; or<br><br>(v) an agreement between the debtor and an entity that has a lien or interest in property of the estate pursuant to which the entity consents to the creation of a lien senior or equal to the entity's lien or interest in such property.<br><br>(B) *Contents.* The motion shall consist of or (if the motion is more than five pages in length) begin with a concise statement of the relief requested, not to exceed five pages, that lists or summarizes, and sets out the location within the relevant documents of, all material provisions of the agreement. In addition, the concise statement shall briefly list or summarize, and identify the specific location of, each provision in the proposed form of order, agreement, or other document of the type listed in subdivision (c)(1)(B). The motion shall also describe the nature and extent of each such provision.<br><br>(C) *Service.* The motion shall be served on: (1) any committee elected under § 705 or appointed under § 1102 of the Code, or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and (2) on any other entity the court directs.<br><br>(2) *Objection.* Notice of the motion and the time within which objections may be filed and served on the debtor in possession or trustee shall be mailed to the parties on whom service is required by paragraph (1) of | (iv) an agreement to use cash collateral; or<br><br>(v) an agreement between the debtor and an entity that has a lien or interest in property of the estate under which the entity consents to creating a lien that is senior or equal to the entity's lien or interest ~~in the property~~.<br><br>(B) *Content~~s~~*. The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must:<br><br>(i) list or summarize all the agreement's material provisions (citing their locations in the relevant documents); and<br><br>(ii) briefly list or summarize, cite the location of, and describe the nature and extent of each provision in the proposed form of order, agreement, or other document of the type listed in (c)(1)(B).<br><br>(C) *Service.* The motion must be served on all those who must be served under (a)(1)(A) and any other entity the court designates.<br><br>(2) ***Objection.*** Notice of the motion must be mailed to the parties on whom service of the motion is required and any other entity the court designates. The notice must include the time within which objections may be filed and served on the debtor in possession or trustee. Unless the court sets a different time, any objections must be |

| ORIGINAL | REVISION |
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| this subdivision and to such other entities as the court may direct. Unless the court fixes a different time, objections may be filed within 14 days of the mailing of the notice.<br><br>(3) *Disposition; Hearing.* If no objection is filed, the court may enter an order approving or disapproving the agreement without conducting a hearing. If an objection is filed or if the court determines a hearing is appropriate, the court shall hold a hearing on no less than seven days' notice to the objector, the movant, the parties on whom service is required by paragraph (1) of this subdivision and such other entities as the court may direct.<br><br>(4) *Agreement in Settlement of Motion.* The court may direct that the procedures prescribed in paragraphs (1), (2), and (3) of this subdivision shall not apply and the agreement may be approved without further notice if the court determines that a motion made pursuant to subdivisions (a), (b), or (c) of this rule was sufficient to afford reasonable notice of the material provisions of the agreement and opportunity for a hearing. | filed within 14 days after the notice is mailed.<br><br>(3) ***Disposition Without a Hearing.*** If no objection is filed, the court may enter an order approving or disapproving the agreement without holding a hearing.<br><br>(4) ***Hearing.*** If an objection is filed or if the court decides that a hearing is appropriate, the court must hold one after giving at least 7 days' notice to:<br><br>• the objector;<br><br>• the movant;<br><br>• the parties who must be served with the motion under (1)(C); and<br><br>• any other entity the court designates.<br><br>(5) ***Agreement to Settle a Motion.*** The court may decide that a motion made under (a), (b), or (c) was sufficient to give reasonable notice of the agreement's material provisions and an opportunity for a hearing. If so, the court may order that the procedures prescribed in (1)–(4) do not apply and may approve the agreement without further notice. |

**Committee Note**

The language of Rule 4001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4002. Duties of Debtor** | **Rule 4002. Debtor's Duties** |
| (a) IN GENERAL. In addition to performing other duties prescribed by the Code and rules, the debtor shall:<br><br>(1) attend and submit to an examination at the times ordered by the court;<br><br>(2) attend the hearing on a complaint objecting to discharge and testify, if called as a witness;<br><br>(3) inform the trustee immediately in writing as to the location of real property in which the debtor has an interest and the name and address of every person holding money or property subject to the debtor's withdrawal or order if a schedule of property has not yet been filed pursuant to Rule 1007;<br><br>(4) cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and<br><br>(5) file a statement of any change of the debtor's address. | **(a) In General.** In addition to performing other duties that are required by the Code or these rules, the debtor must:<br><br>(1) attend and submit to an examination when the court orders;<br><br>(2) attend the hearing on a complaint objecting to discharge and, if called, testify as a witness;<br><br>(3) if a schedule of property has not yet been filed under Rule 1007, report to the trustee immediately in writing:<br><br>(A) the location of any real property in which the debtor has an interest; and<br><br>(B) the name and address of every person holding money or property subject to the debtor's withdrawal or order;<br><br>(4) cooperate with the trustee in preparing an inventory, examining proofs of claim, and administering the estate; and<br><br>(5) file a statement of any change in the debtor's address. |
| (b) INDIVIDUAL DEBTOR'S DUTY TO PROVIDE DOCUMENTATION.<br><br>(1) *Personal Identification.* Every individual debtor shall bring to the meeting of creditors under § 341:<br><br>(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and<br><br>(B) evidence of social security number(s), or a written statement that such documentation does not exist. | **(b) Individual Debtor's Duty to Provide Documents.**<br><br>(1) ***Personal Identifying Information.*** An individual debtor must bring to the § 341 meeting of creditors:<br><br>(A) a government-issued identification ~~containing~~ with the debtor's picture, or other personal ~~identifying~~ information that establishes the debtor's identity; and<br><br>(B) evidence of any social-security number, or a written statement that no such evidence exists. |

| ORIGINAL | REVISION |
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| (2) *Financial Information.* Every individual debtor shall bring to the meeting of creditors under § 341, and make available to the trustee, the following documents or copies of them, or provide a written statement that the documentation does not exist or is not in the debtor's possession:<br><br>(A) evidence of current income such as the most recent payment advice;<br><br>(B) unless the trustee or the United States trustee instructs otherwise, statements for each of the debtor's depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the date of the filing of the petition; and<br><br>(C) documentation of monthly expenses claimed by the debtor if required by § 707(b)(2)(A) or (B).<br><br>(3) *Tax Return.* At least 7 days before the first date set for the meeting of creditors under § 341, the debtor shall provide to the trustee a copy of the debtor's federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a return was filed, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.<br><br>(4) *Tax Returns Provided to Creditors.* If a creditor, at least 14 days before the first date set for the meeting of creditors under § 341, requests a copy of the debtor's tax return that is to be provided to the trustee under subdivision (b)(3), the debtor, at least 7 days before the first date set for the | (2) ***Financial Documents.*** An individual debtor must bring the following documents (or copies) to the § 341 meeting of creditors and make them available to the trustee—or provide a written statement that they do not exist or are not in the debtor's possession:<br><br>(A) evidence of current income, such as the most recent payment advice;<br><br>(B) unless the trustee or the United States trustee instructs otherwise, a statement for each depository or investment account—including a checking, savings, or money-market account, mutual fund or brokerage account—for the period that includes the petition's filing date; and<br><br>(C) if required by § 707(b)(2)(A) or (B), documents showing claimed monthly expenses.<br><br>(3) ***Tax Return to Be Provided to the Trustee.*** At least 7 days before the first date set for the § 341 meeting of creditors, the debtor must provide the trustee with:<br><br>(A) a copy of the debtor's federal income-tax return, including any attachments to it, for the most recent tax year ending before the case was commenced and for which the debtor filed a return;<br><br>(B) a transcript of the return; or<br><br>(C) a written statement that the ~~documentation does~~documents do not exist.<br><br>(4) ***Tax Return to Be Provided to a Creditor.*** Upon a creditor's request at least 14 days before the first date set for the § 341 meeting of creditors, the debtor must provide the creditor with the documents to be provided to the trustee under (3). The debtor must do |

| ORIGINAL | REVISION |
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| meeting of creditors under § 341, shall provide to the requesting creditor a copy of the return, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.<br><br>(5) *Confidentiality of Tax Information.* The debtor's obligation to provide tax returns under Rule 4002(b)(3) and (b)(4) is subject to procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States Courts. | so at least 7 days before the meeting.<br><br>(5) ***Safeguarding Confidential Tax Information.*** The debtor's obligation to provide tax returns under (3) and (4) is subject to procedures established by the Director of the Administrative Office of the United States Courts for safeguarding confidential tax information. |

**Committee Note**

The language of Rule 4002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4003. Exemptions** | **Rule 4003. Exemptions** |
| (a) CLAIM OF EXEMPTIONS. A debtor shall list the property claimed as exempt under § 522 of the Code on the schedule of assets required to be filed by Rule 1007. If the debtor fails to claim exemptions or file the schedule within the time specified in Rule 1007, a dependent of the debtor may file the list within 30 days thereafter. | **(a) Claiming an Exemption.** A debtor must list the property claimed as exempt under § 522 on Form 106C filed under Rule 1007. If the debtor fails to do so within the time specified in Rule 1007(c), a debtor's dependent may file the list within 30 days after the debtor's time to file expires. |
| (b) OBJECTING TO A CLAIM OF EXEMPTIONS.<br><br>(1) Except as provided in paragraphs (2) and (3), a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension.<br><br>(2) The trustee may file an objection to a claim of exemption at any time prior to one year after the closing of the case if the debtor fraudulently asserted the claim of exemption. The trustee shall deliver or mail the objection to the debtor and the debtor's attorney, and to any person filing the list of exempt property and that person's attorney.<br><br>(3) An objection to a claim of exemption based on § 522(q) shall be filed before the closing of the case. If an exemption is first claimed after a case is reopened, an objection shall be filed before the reopened case is closed.<br><br>(4) A copy of any objection shall | **(b) Objecting to a Claimed Exemption.**<br><br>(1) ***By a Party in Interest.*** Except as (2) and (3) provide, a party in interest may file an objection to a claimed exemption within 30 days after the later of:<br><br>• the conclusion of the § 341 meeting of creditors;<br><br>• the filing of an amendment to the list; or<br><br>• the filing of a supplemental schedule.<br><br>On a party in interest's motion filed before the time to object expires, the court may, for cause, extend the time to file an objection.<br><br>(2) ***By the Trustee for a Fraudulently Claimed Exemption.*** If the debtor has fraudulently claimed an exemption, the trustee may file an objection to it within one year after the case is closed. The trustee must deliver or mail the objection to:<br><br>• the debtor;<br><br>• the debtor's attorney;<br><br>• the person who filed the list of exempt property; and<br><br>• that person's attorney. |

| ORIGINAL | REVISION |
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| be delivered or mailed to the trustee, the debtor and the debtor's attorney, and the person filing the list and that person's attorney. | (3) ***Objection Based on § 522(q).*** An objection based on § 522(q) must be filed:<br>(A) before the case is closed; or<br>(B) if an exemption is first claimed after a case has been reopened, before the reopened case is closed.<br>(4) ***Distributing Copies of the Objection.*** A copy of any objection, other than one filed by the trustee under (b)(2), must be delivered or mailed to:<br>• the trustee;<br>• the debtor;<br>• the debtor's attorney;<br>• the person who filed the list of exempt property; and<br>• that person's attorney. |
| (c) BURDEN OF PROOF. In any hearing under this rule, the objecting party has the burden of proving that the exemptions are not properly claimed. After hearing on notice, the court shall determine the issues presented by the objections. | **(c) Burden of Proof.** In a hearing under this Rule 4003, the objecting party has the burden of proving that an exemption was not properly claimed. After notice and a hearing, the court must determine the issues presented. |
| (d) AVOIDANCE BY DEBTOR OF TRANSFERS OF EXEMPT PROPERTY. A proceeding under § 522(f) to avoid a lien or other transfer of property exempt under the Code shall be commenced by motion in the manner provided by Rule 9014, or by serving a chapter 12 or chapter 13 plan on the affected creditors in the manner provided by Rule 7004 for service of a summons and complaint. Notwithstanding the provisions of subdivision (b), a creditor may object to a request under § 522(f) by challenging the validity of the exemption asserted to | **(d) Avoiding a Lien or Other Transfer of Exempt Property.**<br>(1) ***Bringing a Proceeding.*** A proceeding under § 522(f) to avoid a lien or other transfer of exempt property must be commenced by:<br>(A) filing a motion under Rule 9014; or<br>(B) serving a Chapter 12 or 13 plan on the affected creditors as Rule 7004 provides for serving a summons and complaint.<br>(2) ***Objecting to a Request Under § 522(f).*** As an exception to (b), a creditor may object to a request under |

| ORIGINAL | REVISION |
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| be impaired by the lien. | § 522(f) by challenging the validity of the exemption asserted to be impaired by the lien. |

**Committee Note**

The language of Rule 4003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4004. Grant or Denial of Discharge** | **Rule 4004. Granting or Denying a Discharge** |
| (a) TIME FOR OBJECTING TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (a)(9) of the Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney. | **(a) Time to Object to a Discharge; Notice.**<br>(1) ***Chapter 7.*** In a Chapter 7 case, a complaint—or a motion under § 727(a)(8) or (9)—objecting to a discharge must be filed within 60 days after the first date set for the § 341(a) meeting of creditors.<br>(2) ***Chapter 11.*** In a Chapter 11 case, a complaint objecting to a discharge must be filed on or before the first date set for the hearing on confirmation.<br>(3) ***Chapter 13.*** In a Chapter 13 case, a motion objecting to a discharge under § 1328(f) must be filed within 60 days after the first date set for the § 341(a) meeting of creditors.<br>(4) ***Notice to the United States Trustee, the Creditors, and the Trustee.*** At least 28 days' notice of ~~the time so fixed~~the time for filing must be given to:<br>• the United States trustee under Rule 2002(k);<br>• all creditors under Rule 2002(f);<br>• the trustee; and<br>• the trustee's attorney. |
| (b) EXTENSION OF TIME.<br>(1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.<br>(2) A motion to extend the time to object to discharge may be filed after the time for objection has expired and | **(b) Extending the Time to File an Objection.**<br>(1) ***Motion Before the Time Expires.*** On a party in interest's motion and after notice and a hearing, the court may, for cause, extend the time to object to a discharge. The motion must be filed before the time has expired.<br>(2) ***Motion After the Time Has Expired.*** After the time to object has |

| ORIGINAL | REVISION |
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| before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based. | expired and before a discharge is granted, a party in interest may file a motion to extend the time ~~to object~~ if:<br>(A) the objection is based on facts that, if learned after the discharge is granted, would provide a basis for revocation under § 727(d)~~, and~~ ;<br>~~(A)~~(B) the movant did not know those facts in time to object; and<br>~~(B)~~(C) the movant files the motion promptly after learning ~~those facts~~about them. |
| (c) GRANT OF DISCHARGE.<br>(1) In a chapter 7 case, on expiration of the times fixed for objecting to discharge and for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge, except that the court shall not grant the discharge if:<br>(A) the debtor is not an individual;<br>(B) a complaint, or a motion under § 727(a)(8) or (a)(9), objecting to the discharge has been filed and not decided in the debtor's favor;<br>(C) the debtor has filed a waiver under § 727(a)(10);<br>(D) a motion to dismiss the case under § 707 is pending;<br>(E) a motion to extend the time for filing a complaint objecting to the discharge is pending;<br>(F) a motion to extend the time for filing a motion to dismiss the case under Rule 1017(e)(1) is pending;<br>(G) the debtor has not paid in full the filing fee prescribed by | **(c) Granting a Discharge.**<br>(1) ***Chapter 7.*** In a Chapter 7 case, when the times to object to discharge and to file a motion to dismiss the case under Rule 1017(e) expire, the court must promptly grant the discharge—except under these circumstances:<br>(A) the debtor is not an individual;<br>(B) a complaint~~,~~ or a motion under § 727(a)(8) or (9)~~,~~ objecting to the discharge is pending;<br>(C) the debtor has filed a waiver under § 727(a)(10);<br>(D) a motion is pending to dismiss the case under § 707;<br>(E) a motion is pending to extend the time to file a complaint objecting to the discharge;<br>(F) a motion is pending to extend the time to file a motion to dismiss the case under Rule 1017(e)(1);<br>(G) the debtor has not fully paid the filing fee required by 28 U.S.C. § 1930(a)~~,~~ together with any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the |

| ORIGINAL | REVISION |
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| 28 U.S.C. § 1930(a) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code, unless the court has waived the fees under 28 U.S.C. § 1930(f);<br><br>(H) the debtor has not filed with the court a statement of completion of a course concerning personal financial management if required by Rule 1007(b)(7);<br><br>(I) a motion to delay or postpone discharge under § 727(a)(12) is pending;<br><br>(J) a motion to enlarge the time to file a reaffirmation agreement under Rule 4008(a) is pending;<br><br>(K) a presumption is in effect under § 524(m) that a reaffirmation agreement is an undue hardship and the court has not concluded a hearing on the presumption; or<br><br>(L) a motion is pending to delay discharge because the debtor has not filed with the court all tax documents required to be filed under § 521(f).<br><br>(2) Notwithstanding Rule 4004(c)(1), on motion of the debtor, the court may defer the entry of an order granting a discharge for 30 days and, on motion within that period, the court may defer entry of the order to a date certain.<br><br>(3) If the debtor is required to file a statement under Rule 1007(b)(8), the court shall not grant a discharge earlier than 30 days after the statement is filed. | clerk upon commencing a case—unless the court has waived the fees under 28 U.S.C. § 1930(f);<br><br>(H) the debtor has not filed a statement showing that a course on personal financial management has been completed—if such a statement is required by Rule 1007(b)(7);<br><br>(I) a motion is pending to delay or postpone a discharge under § 727(a)(12);<br><br>(J) a motion is pending to extend the time to file a reaffirmation agreement under Rule 4008(a);<br><br>(K) the court has not concluded a hearing on a presumption—in effect under § 524(m)—that a reaffirmation agreement is an undue hardship; or<br><br>(L) a motion is pending to delay discharge because the debtor has not filed with the court all tax documents required to be filed under § 521(f).<br><br>(2) ***Delay in Entering a Discharge in General.*** On the debtor's motion, the court may delay entering a discharge for 30 days and, on a motion made within that time, delay entry to a date certain.<br><br>(3) ***Delaying Entry Because of Rule 1007(b)(8).*** If the debtor is required to file a statement under Rule 1007(b)(8), the court must not grant a discharge until at least 30 days after the statement is filed.<br><br>(4) ***Individual Chapter 11 or Chapter 13 Case.*** In a Chapter 11 case in which the debtor is an individual—or in a Chapter 13 case—the court must not |

| ORIGINAL | REVISION |
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| (4) In a chapter 11 case in which the debtor is an individual, or a chapter 13 case, the court shall not grant a discharge if the debtor has not filed any statement required by Rule 1007(b)(7). | grant a discharge if the debtor has not filed a statement required by Rule 1007(b)(7). |
| (d) APPLICABILITY OF RULES IN PART VII AND RULE 9014. An objection to discharge is governed by Part VII of these rules, except that an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f) is commenced by motion and governed by Rule 9014. | **(d) Applying Part VII Rules and Rule 9014.** The Part VII rules govern an objection to a discharge, except that Rule 9014 governs an objection to a discharge under § 727(a)(8) or (9) or § 1328(f). |
| (e) ORDER OF DISCHARGE. An order of discharge shall conform to the appropriate Official Form. | **(e) Form of a Discharge Order.** A discharge order must conform to the appropriate Official Form. |
| (f) REGISTRATION IN OTHER DISTRICTS. An order of discharge that has become final may be registered in any other district by filing a certified copy of the order in the office of the clerk of that district. When so registered the order of discharge shall have the same effect as an order of the court of the district where registered. | **(f) Registering a Discharge in Another District.** A discharge order that becomes final may be registered in another district by filing a certified copy with the clerk ~~of the court~~ for that district. When registered, the order has the same effect as an order of the court where it is registered. |
| (g) NOTICE OF DISCHARGE. The clerk shall promptly mail a copy of the final order of discharge to those specified in subdivision (a) of this rule. | **(g) Notice of a Final Discharge Order.** The clerk must promptly mail a copy of the final discharge order to those entities listed in (a)(4). |

**Committee Note**

The language of Rule 4004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4005. Burden of Proof in Objecting to Discharge** | **Rule 4005. Burden of Proof in Objecting to a Discharge** |
| At the trial on a complaint objecting to a discharge, the plaintiff has the burden of proving the objection. | At a trial on a complaint objecting to a discharge, the plaintiff has the burden of proof. |

**Committee Note**

The language of Rule 4005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4006. Notice of No Discharge** | **Rule 4006. Notice When No Discharge Is Granted** |
| If an order is entered: denying a discharge; revoking a discharge; approving a waiver of discharge; or, in the case of an individual debtor, closing the case without the entry of a discharge, the clerk shall promptly notify all parties in interest in the manner provided by Rule 2002. | The clerk must promptly notify in the manner provided by Rule 2002(f) all parties in interest of an order:<br>(a) denying a discharge;<br>(b) revoking a discharge;<br>(c) approving a waiver of discharge; or<br>(d) closing an individual debtor's case without entering a discharge. |

**Committee Note**

The language of Rule 4006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4007. Determination of Dischargeability of a Debt** | **Rule 4007. Determining Whether a Debt Is Dischargeable** |
| (a) PERSONS ENTITTLED TO FILE COMPLAINT. A debtor or any creditor may file a complaint to obtain a determination of the dischargeability of any debt. | **(a) Who May File a Complaint.** A debtor or any creditor may file a complaint to determine whether a debt is dischargeable. |
| (b) TIME FOR COMMENCING PROCEEDING OTHER THAN UNDER § 523(c) OF THE CODE. A complaint other than under § 523(c) may be filed at any time. A case may be reopened without payment of an additional filing fee for the purpose of filing a complaint to obtain a determination under this rule. | **(b) Time to File; No Fee for a Reopened Case.** A complaint, except one under § 523(c), may be filed at any time. If a case is reopened to permit filing the complaint, no fee for reopening is required. |
| (c) TIME FOR FILING COMPLAINT UNDER § 523(c) IN A CHAPTER 7 LIQUIDATION, CHAPTER 11 REORGANIZATION, CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE, OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE; NOTICE OF TIME FIXED. Except as otherwise provided in subdivision (d), a complaint to determine the dischargeability of a debt under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired. | **(c) Chapter 7, 11, 12, or 13—Time to File a Complaint Under § 523(c); Notice of Time; Extension.** Except as (d) provides, a complaint to determine whether a debt is dischargeable under § 523(c) must be filed within 60 days after the first date set for the § 341(a) meeting of creditors. The clerk must give all creditors at least 30 days' notice of the time to file in the manner provided by Rule 2002. On a party in interest's motion filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file. |
| (d) TIME FOR FILING COMPLAINT UNDER § 523(a)(6) IN A CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE; NOTICE OF | **(d) Chapter 13—Time to File a Complaint Under § 523(a)(6); Notice of Time; Extension.** When a debtor files a motion for a discharge under § 1328(b), the court |

| ORIGINAL | REVISION |
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| TIME FIXED. On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing the time to file a complaint to determine the dischargeability of any debt under § 523(a)(6) and shall give no less than 30 days' notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired. | must set the time to file a complaint under § 523(a)(6) to determine whether a debt is dischargeable. The clerk must give all creditors at least 30 days' notice of the time to file in the manner provided by Rule 2002. On a party in interest's motion filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file. |
| (e) APPLICABILITY OF RULES IN PART VII. A proceeding commenced by a complaint filed under this rule is governed by Part VII of these rules. | **(e) Applying Part VII Rules.** The Part VII rules govern a proceeding on a complaint filed under this Rule 4007. |

**Committee Note**

The language of Rule 4007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 4008. Filing of Reaffirmation Agreement; Statement in Support of Reaffirmation Agreement** | **Rule 4008. Reaffirmation Agreement and Supporting Statement** |
| (a) FILING OF REAFFIRMATION AGREEMENT. A reaffirmation agreement shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a) of the Code. The reaffirmation agreement shall be accompanied by a cover sheet, prepared as prescribed by the appropriate Official Form. The court may, at any time and in its discretion, enlarge the time to file a reaffirmation agreement. | **(a) Time to File; Cover Sheet.** A reaffirmation agreement must be filed within 60 days after the first date set for the § 341(a) meeting of creditors. The agreement must have a cover sheet prepared as prescribed by Form 427. At any time, the court may extend the time to file an agreement. |
| (b) STATEMENT IN SUPPORT OF REAFFIRMATION AGREEMENT. The debtor's statement required under § 524(k)(6)(A) of the Code shall be accompanied by a statement of the total income and expenses stated on schedules I and J. If there is a difference between the total income and expenses stated on those schedules and the statement required under § 524(k)(6)(A), the statement required by this subdivision shall include an explanation of the difference. | **(b) Supporting Statement.** The debtor's supporting statement required by § 524(k)(6)(A) must be accompanied by a statement of the total income and expenses as shown on Schedules I and J. If the income and expenses shown on the supporting statement differ from those shown on the schedules, the supporting statement must explain the difference. |

**Committee Note**

The language of Rule 4008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 5000 Series

| ORIGINAL | REVISION |
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| PART V—Courts and Clerks | **PART V. COURTS AND CLERKS** |
| **Rule 5001. Courts and Clerks' Offices** | **Rule 5001. Courts Operations; ~~and~~ Clerks' Offices** |
| (a) COURTS ALWAYS OPEN. The courts shall be deemed always open for the purpose of filing any pleading or other proper paper, issuing and returning process, and filing, making, or entering motions, orders and rules. | **(a) Courts Always Open.** Bankruptcy courts are considered always open for filing a pleading, motion, or other paper; issuing and returning process; making rules; or entering an order. |
| (b) TRIALS AND HEARINGS; ORDERS IN CHAMBERS. All trials and hearings shall be conducted in open court and so far as convenient in a regular court room. Except as otherwise provided in 28 U.S.C. § 152(c), all other acts or proceedings may be done or conducted by a judge in chambers and at any place either within or without the district; but no hearing, other than one ex parte, shall be conducted outside the district without the consent of all parties affected thereby. | **(b) Location for Trials and Hearings; Proceedings in Chambers.** Every trial or hearing must be held in open court—in a regular courtroom if convenient. Except as provided in 28 U.S.C. § 152(c), any other act may be performed—or a proceeding held—in chambers anywhere within or outside the district. But unless it is ex parte, a hearing may be held outside the district only if all affected parties consent. |
| (c) CLERK'S OFFICE. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays and the legal holidays listed in Rule 9006(a). | **(c) Clerk's Office Hours.** A clerk's office—with the clerk or a deputy in attendance—must be open during business hours on all days except Saturdays, Sundays, and the legal holidays listed in Rule 9006(a)(6). |

**Committee Note**

The language of Rule 5001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 5002. Restrictions on Approval of Appointments** | **Rule 5002. Restrictions on Approving Court Appointments** |
| (a) APPROVAL OF APPOINTMENT OF RELATIVES PROHIBITED. The appointment of an individual as a trustee or examiner pursuant to § 1104 of the Code shall not be approved by the court if the individual is a relative of the bankruptcy judge approving the appointment or the United States trustee in the region in which the case is pending. The employment of an individual as an attorney, accountant, appraiser, auctioneer, or other professional person pursuant to §§ 327, 1103, or 1114 shall not be approved by the court if the individual is a relative of the bankruptcy judge approving the employment. The employment of an individual as attorney, accountant, appraiser, auctioneer, or other professional person pursuant to §§ 327, 1103, or 1114 may be approved by the court if the individual is a relative of the United States trustee in the region in which the case is pending, unless the court finds that the relationship with the United States trustee renders the employment improper under the circumstances of the case. Whenever under this subdivision an individual may not be approved for appointment or employment, the individual's firm, partnership, corporation, or any other form of business association or relationship, and all members, associates and professional employees thereof also may not be approved for appointment or employment. | **(a) Appointing or Employing Relatives.**<br>(1) ***Trustee or Examiner.*** A bankruptcy judge must not approve appointing an individual as a trustee or examiner under § 1104 if the individual is a relative of either the judge or the United States trustee in the region ~~in which~~where the case is pending.<br>(2) ***Attorney, Accountant, Appraiser, Auctioneer, or Other Professional Person.*** A bankruptcy judge must not approve employing under § 327, § 1103, or § 1114 an individual as an attorney, accountant, appraiser, auctioneer, or other professional person who is a relative of the judge. The court may approve employing a relative of the United States trustee in the region ~~in which~~where the case is ~~pending unless, under the circumstances in the case,~~pending, unless the relationship makes the employment improper.<br>(3) ***Related Entities and Associates.*** If an appointment under (1) or an employment under (2) is forbidden, so is appointing or employing:<br>(A) ~~the individual's~~any entity—including any firm, ~~partnership, corporation~~partnership, or corporation—, with which the individual has a ~~or any other form of~~ business association or relationship; or<br>(B) a member, associate, or professional employee of such an entity ~~listed in (A)~~. |
| (b) JUDICIAL DETERMINATION THAT APPROVAL OF APPOINTMENT OR EMPLOYMENT IS IMPROPER. A bankruptcy judge may not approve the | **(b) Other Considerations in Approving Appointments or Employment.** A bankruptcy judge must not approve appointing a person as a trustee or examiner—~~.~~ |

| ORIGINAL | REVISION |
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| appointment of a person as a trustee or examiner pursuant to § 1104 of the Code or approve the employment of a person as an attorney, accountant, appraiser, auctioneer, or other professional person pursuant to §§ 327, 1103, or 1114 of the Code if that person is or has been so connected with such judge or the United States trustee as to render the appointment or employment improper. | ~~under (a)(1)~~or employing an attorney, accountant, appraiser, auctioneer, or other professional person—if the person is, or has been, so connected with the judge or the United States trustee as to make the appointment or employment improper. |

**Committee Note**

The language of Rule 5002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5003. Records Kept By the Clerk** | **Rule 5003. Records to Be Kept by the Clerk** |
| (a) BANKRUPTCY DOCKETS. The clerk shall keep a docket in each case under the Code and shall enter thereon each judgment, order, and activity in that case as prescribed by the Director of the Administrative Office of the United States Courts. The entry of a judgment or order in a docket shall show the date the entry is made. | **(a) Bankruptcy Docket.** The clerk must keep a docket in each case and must:<br>(1) enter on the docket each judgment, order, and activity, as prescribed by the Director of the Administrative Office of the United States Courts; and<br>(2) show the date of entry for each judgment or order. |
| (b) CLAIMS REGISTER. The clerk shall keep in a claims register a list of claims filed in a case when it appears that there will be a distribution to unsecured creditors. | **(b) Claims Register.** When it appears that there will be a distribution to unsecured creditors, the clerk must keep in a claims register a list of the claims filed in the case. |
| (c) JUDGMENTS AND ORDERS. The clerk shall keep, in the form and manner as the Director of the Administrative Office of the United States Courts may prescribe, a correct copy of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and any other order which the court may direct to be kept. On request of the prevailing party, a correct copy of every judgment or order affecting title to or lien upon real or personal property or for the recovery of money or property shall be kept and indexed with the civil judgments of the district court. | **(c) Judgments and Orders.**<br>(1) ***In General.*** In the form and manner prescribed by the Director of the Administrative Office of the United States Courts, the clerk must keep a copy of:<br>(A) every final judgment or order affecting title to, or a lien on, real property;<br>(B) every final judgment or order for the recovery of money or property; and<br>(C) any other order the court designates.<br>(2) ***Indexing with the District Court.*** On a prevailing party's request, a copy of the following must be kept and indexed with the district court's civil judgments:<br>(A) every final judgment or order affecting title to, or a lien on, real or personal property; and |

| ORIGINAL | REVISION |
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| | (B) every final judgment or order for the recovery of money or property. |
| (d) INDEX OF CASES; CERTIFICATE OF SEARCH. The clerk shall keep indices of all cases and adversary proceedings as prescribed by the Director of the Administrative Office of the United States Courts. On request, the clerk shall make a search of any index and papers in the clerk's custody and certify whether a case or proceeding has been filed in or transferred to the court or if a discharge has been entered in its records. | **(d) Index of Cases; Certificate of Search.**<br>(1) ***Index of Cases.*** The clerk must keep an index of cases and adversary proceedings in the form and manner prescribed by the Director of the Administrative Office of the United States Courts.<br>(2) ***Searching the Index; Certificate of Search.*** On request, the clerk must search the index and papers in the clerk's custody and certify whether:<br>(A) a case or proceeding has been filed in or transferred to the court; or<br>(B) a discharge has been entered. |
| (e) REGISTER OF MAILING ADDRESSES OF FEDERAL AND STATE GOVERNMENTAL UNITS AND CERTAIN TAXING AUTHORITIES. The United States or the state or territory in which the court is located may file a statement designating its mailing address. The United States, state, territory, or local governmental unit responsible for collecting taxes within the district in which the case is pending may also file a statement designating an address for service of requests under § 505(b) of the Code, and the designation shall describe where further information concerning additional requirements for filing such requests may be found. The clerk shall keep, in the form and manner as the Director of the Administrative Office of the United States Courts may prescribe, a register that includes the mailing addresses designated under the first sentence of this subdivision, and a | **(e) Register of Mailing Addresses of Federal and State Governmental Units and Certain Taxing Authorities.**<br>(1) ***In General.*** The United States—or a state or a territory where the court is located—may file a statement designating its mailing address. A taxing authority (including a local taxing authority) may also file a statement designating an address for serving requests under § 505(b). The authority's designation must describe where to find further information about additional requirements for serving a request.<br>(2) ***Register of Mailing Address.***<br>(A) *In General.* In the form and manner prescribed by the Director of the Administrative Office of the United States Courts, the clerk must keep a register of the mailing addresses |

| ORIGINAL | REVISION |
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| separate register of the addresses designated for the service of requests under § 505(b) of the Code. The clerk is not required to include in any single register more than one mailing address for each department, agency, or instrumentality of the United States or the state or territory. If more than one address for a department, agency, or instrumentality is included in the register, the clerk shall also include information that would enable a user of the register to determine the circumstances when each address is applicable, and mailing notice to only one applicable address is sufficient to provide effective notice. The clerk shall update the register annually, effective January 2 of each year. The mailing address in the register is conclusively presumed to be a proper address for the governmental unit, but the failure to use that mailing address does not invalidate any notice that is otherwise effective under applicable law. | of the governmental units listed in the first sentence of (1) and a separate register containing the addresses of taxing authorities for serving requests under § 505(b).<br>(B) *Number of Entries.* The clerk need not include in any register more than one mailing address for each department, agency, or instrumentality of the United States or the state or territory. But if more than one mailing address is included, the clerk must also include information that would enable a user to determine when each address ~~is applicable~~applies. Mailing to only one applicable address provides effective notice.<br>(C) *Keeping the Register Current.* The clerk must update the register annually, as of January 2 of each year.<br>(D) *Mailing Address Presumed to Be Proper.* A mailing address in the register is conclusively presumed to be proper. But a failure to use that address does not invalidate ~~any~~ a notice that is otherwise effective under applicable law. |
| (f) OTHER BOOKS AND RECORDS OF THE CLERK. The clerk shall keep any other books and records required by the Director of the Administrative Office of the United States Courts. | **(f) Other Books and Records.** The clerk must keep any other books and records required by the Director of the Administrative Office of the United States Courts. |

**Committee Note**

The language of Rule 5003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 5004. Disqualification** | **Rule 5004. Disqualifying a Bankruptcy Judge** |
| (a) DISQUALIFICATION OF JUDGE. A bankruptcy judge shall be governed by 28 U.S.C. § 455, and disqualified from presiding over the proceeding or contested matter in which the disqualifying circumstances arises or, if appropriate, shall be disqualified from presiding over the case. | **(a) From Presiding Over a Proceeding, Contested Matter, or Case.** A bankruptcy judge's disqualification is governed by 28 U.S.C. § 455. The judge is disqualified from presiding over a proceeding or contested matter in which a disqualifying circumstance arises—and, when appropriate, from presiding over the entire case. |
| (b) DISQUALIFICATION OF JUDGE FROM ALLOWING COMPENSATION. A bankruptcy judge shall be disqualified from allowing compensation to a person who is a relative of the bankruptcy judge or with whom the judge is so connected as to render it improper for the judge to authorize such compensation. | **(b) From Allowing Compensation.** The bankruptcy judge is disqualified from allowing compensation to a relative or to a person who is so connected with the judge as to make the judge's allowing it improper. |

**Committee Note**

The language of Rule 5004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5005. Filing and Transmittal of Papers** | **Rule 5005. Filing Papers and Sending Copies to the United States Trustee** |
| (a) FILING.<br><br>(1) *Place of Filing.* The lists, schedules, statements, proofs of claim or interest, complaints, motions, applications, objections and other papers required to be filed by these rules, except as provided in 28 U.S.C. § 1409, shall be filed with the clerk in the district where the case under the Code is pending. The judge of that court may permit the papers to be filed with the judge, in which event the filing date shall be noted thereon, and they shall be forthwith transmitted to the clerk. The clerk shall not refuse to accept for filing any petition or other paper presented for the purpose of filing solely because it is not presented in proper form as required by these rules or any local rules or practices.<br><br>(2) *Electronic Filing and Signing.*<br><br>(A) *By a Represented Entity—Generally Required; Exceptions.* An entity represented by an attorney shall file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.<br><br>(B) *By an Unrepresented Individual—When Allowed or Required.* An individual not represented by an attorney:<br><br>(i) may file electronically only if allowed by court order or by local rule; and<br><br>(ii) may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions. | **(a) Filing Papers.**<br><br>(1) ***With the Clerk.*** Except as provided in 28 U.S.C. § 1409, the following papers required to be filed by these rules must be filed with the clerk in the district where the case is pending:<br><br>• lists;<br>• schedules;<br>• statements;<br>• proofs of claim or interest;<br>• complaints;<br>• motions;<br>• applications;<br>• objections; and<br>• other required papers.<br><br>The clerk must not refuse to accept for filing any petition or other paper solely because it is not in the form required by these rules or by any local rule or practice.<br><br>(2) ***With a Judge of the Court.*** A judge may personally accept for filing a paper listed in (1). The judge must note on ~~the paper~~it the date of filing and promptly send it to the clerk.<br><br>(3) ***Electronic Filing and Signing.***<br><br>(A) *By a Represented Entity—Generally Required; Exceptions.* An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for ~~good~~ cause or is allowed or required by local rule. |

| ORIGINAL | REVISION |
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| (C) *Signing.* A filing made through a person's electronic filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.<br><br>(D) *Same as a Written Paper.* A paper filed electronically is a written paper for purposes of these rules, the Federal Rules of Civil Procedure made applicable by these rules, and § 107 of the Code. | (B) *By an Unrepresented Individual—When Allowed or Required.* An individual not represented by an attorney:<br><br>(i) may file electronically only if allowed by court order or ~~by~~ local rule; and<br><br>(ii) may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions.<br><br>(C) *Signing.* A filing made through a person's electronic-filing account and authorized by that person, together with ~~that~~ the person's name on a signature block, constitutes the person's signature.<br><br>(D) *Same as a Written Paper.* A paper filed electronically is a written paper for purposes of these rules, the Federal Rules of Civil Procedure made applicable by these rules, and § 107. |
| (b) TRANSMITTAL TO THE UNITED STATES TRUSTEE.<br><br>(1) The complaints, notices, motions, applications, objections and other papers required to be transmitted to the United States trustee may be sent by filing with the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.<br><br>(2) The entity, other than the clerk, transmitting a paper to the United States trustee other than through the court's electronic-filing system shall promptly file as proof of such transmittal a statement identifying the paper and stating the manner by which and the date on which it was transmitted to the United States trustee. | **(b) Sending Copies to the United States Trustee.**<br><br>(1) ***Papers Sent Electronically.*** All papers required to be sent to the United States trustee may be sent by using the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.<br><br>(2) ***Papers Not Sent Electronically.*** If an entity other than the clerk sends a paper to the United States trustee without using the court's electronic-filing system, the entity must promptly file a statement identifying the paper and stating the manner by which and the date it was sent. The clerk need not send a copy of a paper to a United States trustee |

| ORIGINAL | REVISION |
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| (3) Nothing in these rules shall require the clerk to transmit any paper to the United States trustee if the United States trustee requests in writing that the paper not be transmitted. | who requests in writing that it not be sent. |
| (c) ERROR IN FILING OR TRANSMITTAL. A paper intended to be filed with the clerk but erroneously delivered to the United States trustee, the trustee, the attorney for the trustee, a bankruptcy judge, a district judge, the clerk of the bankruptcy appellate panel, or the clerk of the district court shall, after the date of its receipt has been noted thereon, be transmitted forthwith to the clerk of the bankruptcy court. A paper intended to be transmitted to the United States trustee but erroneously delivered to the clerk, the trustee, the attorney for the trustee, a bankruptcy judge, a district judge, the clerk of the bankruptcy appellate panel, or the clerk of the district court shall, after the date of its receipt has been noted thereon, be transmitted forthwith to the United States trustee. In the interest of justice, the court may order that a paper erroneously delivered shall be deemed filed with the clerk or transmitted to the United States trustee as of the date of its original delivery. | **(c) When a Paper Is Erroneously Filed or Delivered.**<br>(1) ***Paper Intended for the Clerk.*** If a paper intended to be filed with the clerk is erroneously delivered to a person listed below, that person must note on it the date of receipt and promptly send it to the clerk:<br>• the United States trustee;<br>• the trustee;<br>• the trustee's attorney;<br>• a bankruptcy judge;<br>• a district judge;<br>• the clerk of the bankruptcy appellate panel; or<br>• the clerk of the district court.<br>(2) ***Paper Intended for the United States Trustee.*** If a paper intended for the United States trustee is erroneously delivered to the clerk or to another person listed in (1), the clerk or that person must note on it the date of receipt and promptly send it to the United States trustee.<br>(3) ***Applicable Filing Date.*** In the interests of justice, the court may order that the original receipt date ~~of receipt~~ shown on a paper erroneously delivered under (1) or (2) be deemed the date it was filed with the clerk or sent to the United States trustee. |

**Committee Note**

The language of Rule 5005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5006. Certification of Copies of Papers** | **Rule 5006. Providing Certified Copies** |
| The clerk shall issue a certified copy of the record of any proceeding in a case under the Code or of any paper filed with the clerk on payment of any prescribed fee. | Upon payment of the prescribed fee, the clerk must issue a certified copy of the record of any proceeding or any paper filed with the clerk. |

**Committee Note**

The language of Rule 5006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5007. Record of Proceedings and Transcripts** | **Rule 5007. Record of Proceedings; ~~and~~ Transcripts** |
| (a) FILING OF RECORD OR TRANSCRIPT. The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and promptly file them with the clerk. The person preparing any transcript shall promptly file a certified copy. | **(a) Filing Original Notes, Tape Recordings, and Other Original Records of a Proceeding; Transcripts.**<br>(1) ***Records.*** The reporter or operator of a recording device must certify the original notes of testimony, any tape recordings, and other original records of a proceeding and must promptly file them with the clerk.<br>(2) ***Transcripts.*** A person who prepares a transcript must promptly file a certified copy with the clerk. |
| (b) TRANSCRIPT FEES. The fees for copies of transcripts shall be charged at rates prescribed by the Judicial Conference of the United States. No fee may be charged for the certified copy filed with the clerk. | **(b) Fee for a Transcript.** The fee for a copy of a transcript must be charged at the rate prescribed by the Judicial Conference of the United States. No fee may be charged for filing the certified copy. |
| (c) ADMISSIBILITY OF RECORD IN EVIDENCE. A certified sound recording or a transcript of a proceeding shall be admissible as prima facie evidence to establish the record. | **(c) Sound Recording or Transcript as Prima Facie Evidence.** In any proceeding, a certified sound recording or a transcript of a proceeding is admissible as prima facie evidence of the record. |

**Committee Note**

The language of Rule 5007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5008. Notice Regarding Presumption of Abuse in Chapter 7 Cases of Individual Debtors** | **Rule 5008. Chapter 7—Notice That a Presumption of Abuse Has Arisen Under § 707(b)** |
| If a presumption of abuse has arisen under § 707(b) in a chapter 7 case of an individual with primarily consumer debts, the clerk shall within 10 days after the date of the filing of the petition notify creditors of the presumption of abuse in accordance with Rule 2002. If the debtor has not filed a statement indicating whether a presumption of abuse has arisen, the clerk shall within 10 days after the date of the filing of the petition notify creditors that the debtor has not filed the statement and that further notice will be given if a later filed statement indicates that a presumption of abuse has arisen. If a debtor later files a statement indicating that a presumption of abuse has arisen, the clerk shall notify creditors of the presumption of abuse as promptly as practicable. | **(a) Notice to Creditors.** When a presumption of abuse under § 707(b) arises in a Chapter 7 case of an individual debtor with primarily consumer debts, the clerk must, within 10 days after the petition is filed, so notify the creditors in accordance with Rule 2002.<br><br>**(b) Debtor's Statement.** If the debtor does not file a statement indicating whether a presumption has arisen, the clerk must, within 10 days after the petition is filed, so notify creditors and indicate that further notice will be given if a later-filed statement shows that the presumption has arisen. If the debtor later files such a statement, the clerk must promptly notify the creditors. |

**Committee Note**

The language of Rule 5008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5009. Closing Chapter 7, Chapter 12, Chapter 13, and Chapter 15 Cases; Order Declaring Lien Satisfied** | **Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied** |
| (a) CLOSING OF CASES UNDER CHAPTERS 7, 12, AND 13. If in a chapter 7, chapter 12, or chapter 13 case the trustee has filed a final report and final account and has certified that the estate has been fully administered, and if within 30 days no objection has been filed by the United States trustee or a party in interest, there shall be a presumption that the estate has been fully administered. | **(a) Closing a Chapter 7, 12, or 13 Case.** The estate in a Chapter 7, 12, or 13 case is presumed to have been fully administered when:<br>(1) the trustee has filed a final report and final account and has certified that the estate has been fully administered; and<br>(2) within 30 days after the filing, no objection to the report has been filed by the United States trustee or a party in interest. |
| (b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7) STATEMENT. If an individual debtor in a chapter 7 or 13 case is required to file a statement under Rule 1007(b)(7) and fails to do so within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the required statement is filed within the applicable time limit under Rule 1007(c). | **(b) Chapter 7 or 13—Notice of a Failure to File a Statement About Completing a Course on Personal Financial Management.** This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a statement under Rule 1007(b) and fails to do so within 45 days after the first date set for the meeting of creditors under § 341(a). The clerk must promptly notify the debtor that the case will be closed without entering a discharge ~~unless~~ if the statement is not filed within the time prescribed by Rule 1007(c). |
| (c) CASES UNDER CHAPTER 15. A foreign representative in a proceeding recognized under § 1517 of the Code shall file a final report when the purpose of the representative's appearance in the court is completed. The report shall describe the nature and results of the representative's activities in the court. The foreign representative shall transmit the report to the United States trustee, and give notice of its filing to the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in | **(c) Closing a Chapter 15 Case.**<br>(1) ***Foreign Representative's Final Report.*** In a proceeding recognized under § 1517, when the purpose of a foreign representative's appearance is completed, the representative must file a final report describing the nature and results of the representative's activities in the court.<br>(2) ***Giving Notice of the Report.*** The representative must send a copy of the report to the United States trustee, give notice of its filing, and file a certificate |

| ORIGINAL | REVISION |
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| the United States in which the debtor was a party at the time of the filing of the petition, and such other entities as the court may direct. The foreign representative shall file a certificate with the court that notice has been given. If no objection has been filed by the United States trustee or a party in interest within 30 days after the certificate is filed, there shall be a presumption that the case has been fully administered. | ~~with the court~~ indicating that the notice has been given~~,~~ to:<br>(A) the debtor;<br>(B) all persons or bodies authorized to administer the debtor's foreign proceedings;<br>(C) all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and<br>(D) any other entity the court designates.<br>(3) ***Presumption of Full Administration.*** If the United States trustee or a party in interest does not file an objection within 30 days after the certificate is filed, the case is presumed to have been fully administered. |
| (d) ORDER DECLARING LIEN SATISFIED. In a chapter 12 or chapter 13 case, if a claim that was secured by property of the estate is subject to a lien under applicable nonbankruptcy law, the debtor may request entry of an order declaring that the secured claim has been satisfied and the lien has been released under the terms of a confirmed plan. The request shall be made by motion and shall be served on the holder of the claim and any other entity the court designates in the manner provided by Rule 7004 for service of a summons and complaint. | **(d)** ***Order Declaring a Lien Satisfied.*** This subdivision (d) applies in a Chapter 12 or 13 case when a claim secured by property of the estate is subject to a lien under applicable nonbankruptcy law. The debtor may move for an order declaring that the secured claim has been satisfied and the lien has been released under the terms of the confirmed plan. The motion must be served—in the manner provided by Rule 7004 for serving a summons and complaint—on the claim holder and any other entity the court designates. |

**Committee Note**

The language of Rule 5009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5010. Reopening Cases** | **Rule 5010. Reopening a Case** |
| A case may be reopened on motion of the debtor or other party in interest pursuant to § 350(b) of the Code. In a chapter 7, 12, or 13 case a trustee shall not be appointed by the United States trustee unless the court determines that a trustee is necessary to protect the interests of creditors and the debtor or to insure efficient administration of the case. | On the debtor's or another party in interest's motion, the court may, under § 350(b), reopen a case. In a reopened Chapter 7, 12, or 13 case, the United States trustee must not appoint a trustee unless the court determines that one is needed to protect the interests of the creditors and the debtor, or to ensure that the reopened case is efficiently administered. |

**Committee Note**

The language of Rule 5010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5011. Withdrawal and Abstention from Hearing a Proceeding** | **Rule 5011. Motion to Withdraw a Case or Proceeding or to Abstain from Hearing a Proceeding; Staying a Proceeding** |
| (a) WITHDRAWAL. A motion for withdrawal of a case or proceeding shall be heard by a district judge. | **(a) Withdrawing a Case or Proceeding.** A motion to withdraw a case or proceeding under 28 U.S.C. § 157(d) must be heard by a district judge. |
| (b) ABSTENTION FROM HEARING A PROCEEDING. A motion for abstention pursuant to 28 U.S.C. § 1334(c) shall be governed by Rule 9014 and shall be served on the parties to the proceeding. | **(b) Abstaining from Hearing a Proceeding.** ~~A~~ Rule 9014 governs a motion ~~requesting~~ asking the court to abstain from hearing a proceeding under 28 U.S.C. § 1334(c) ~~is governed by Rule 9014~~. The motion must be served on all parties to the proceeding. |
| (c) EFFECT OF FILING OF MOTION FOR WITHDRAWAL OR ABSTENTION. The filing of a motion for withdrawal of a case or proceeding or for abstention pursuant to 28 U.S.C. § 1334(c) shall not stay the administration of the case or any proceeding therein before the bankruptcy judge except that the bankruptcy judge may stay, on such terms and conditions as are proper, proceedings pending disposition of the motion. A motion for a stay ordinarily shall be presented first to the bankruptcy judge. A motion for a stay or relief from a stay filed in the district court shall state why it has not been presented to or obtained from the bankruptcy judge. Relief granted by the district judge shall be on such terms and conditions as the judge deems proper. | **(c) Staying a Proceeding After a Motion to Withdraw or Abstain.** A motion filed under (a) or (b) does not stay proceedings in a case or affect its administration. But a bankruptcy judge may, on proper terms and conditions, stay a proceeding until the motion is decided. |
| | **(d) Motion to Stay a Proceeding.** A motion to stay a proceeding must ordinarily be submitted first to the bankruptcy judge. If it—or a motion for relief from a stay—is filed in the district court, the motion must state why it ~~has~~ was not ~~been~~ first presented to or obtained from the bankruptcy judge. The district judge may grant relief on proper terms and conditions ~~the judge considers proper~~. |

**Committee Note**

The language of Rule 5011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 5012. Agreements Concerning Coordination of Proceedings in Chapter 15 Cases** | **Rule 5012. Chapter 15—Agreement to Coordinate Proceedings** |
| Approval of an agreement under § 1527(4) of the Code shall be sought by motion. The movant shall attach to the motion a copy of the proposed agreement or protocol and, unless the court directs otherwise, give at least 30 days' notice of any hearing on the motion by transmitting the motion to the United States trustee, and serving it on the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519, all parties to litigation pending in the United States in which the debtor was a party at the time of the filing of the petition, and such other entities as the court may direct. | An agreement to coordinate proceedings under § 1527(4) may be approved on motion with an attached copy of the agreement or protocol. Unless the court orders otherwise, the movant must give at least 30 days' notice of any hearing on the motion by sending a copy to the United States trustee and serving it on:<br>• the debtor;<br>• all persons or bodies authorized to administer the debtor's foreign proceedings;<br>• all entities against whom provisional relief is sought under § 1519;<br>• all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and<br>• any other entity the court designates. |

**Committee Note**

The language of Rule 5012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

## 6000 Series

| ORIGINAL | REVISION |
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| PART VI—COLLECTION AND LIQUIDATION OF THE ESTATE | **PART VI. COLLECTING AND LIQUIDATING THE ESTATE** |
| **Rule 6001. Burden of Proof As to Validity of Postpetition Transfer** | **Rule 6001. Burden of Proving the Validity of a Postpetition Transfer** |
| Any entity asserting the validity of a transfer under § 549 of the Code shall have the burden of proof. | An entity that asserts the validity of a postpetition transfer under § 549 has the burden of proof. |

**Committee Note**

The language of Rule 6001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 6002. Accounting by Prior Custodian of Property of the Estate** | **Rule 6002. Custodian's Report to the United States Trustee** |
| (a) ACCOUNTING REQUIRED. Any custodian required by the Code to deliver property in the custodian's possession or control to the trustee shall promptly file and transmit to the United States trustee a report and account with respect to the property of the estate and the administration thereof. | **(a) Custodian's Report and Account.** A custodian required by the Code to deliver property to the trustee must promptly file and send to the United States trustee a report and account about the property of the estate and its administration. |
| (b) EXAMINATION OF ADMINISTRATION. On the filing and transmittal of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, after notice and a hearing, the court shall determine the propriety of the administration, including the reasonableness of all disbursements. | **(b) Examining the Administration.** After the custodian's report and account has been filed and the superseded administration has been examined, the court must, after notice and a hearing, determine whether the custodian's administration has been proper, including whether disbursements have been reasonable. |

**Committee Note**

The language of Rule 6002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case—Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts** | **Rule 6003. Prohibition on Granting Certain Applications and Motions Made Immediately After the Petition Is Filed** |
| Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting the following:<br>(a) an application under Rule 2014;<br>(b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition, but not a motion under Rule 4001; or<br>(c) a motion to assume or assign an executory contract or unexpired lease in accordance with § 365. | **(a) In General.** Unless relief is needed to avoid immediate and irreparable harm, the court must not, within 21 days after the petition is filed, grant an application or motion to:<br>(1) employ a professional person under Rule 2014;<br>(2) use, sell, or lease property of the estate, including a motion to pay all or a part of a claim that arose before the petition was filed;<br>(3) incur any other obligation regarding the property of the estate; or<br>(4) assume or assign an executory contract or unexpired lease under § 365.<br>**(b) Exception.** This rule does not apply to a motion under Rule 4001. |

**Committee Note**

The language of Rule 6003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

| ORIGINAL | REVISION |
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| **Rule 6004. Use, Sale, or Lease of Property** | **Rule 6004. Use, Sale, or Lease of Property** |
| (a) NOTICE OF PROPOSED USE, SALE, OR LEASE OF PROPERTY. Notice of a proposed use, sale, or lease of property, other than cash collateral, not in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i), and (k) and, if applicable, in accordance with § 363(b)(2) of the Code. | **(a) Notice.**<br>(1) ***In General.*** Notice of a proposed use, sale, or lease of property that is not in the ordinary course of business must be given:<br>(A) under Rule 2002(a)(2), (c)(1), (i), and (k); and<br>(B) in accordance with § 363(b)(2), if applicable.<br>(2) ***Exceptions.*** Notice is not required if (d) applies or the proposal involves cash collateral only. |
| (b) OBJECTION TO PROPOSAL. Except as provided in subdivisions (c) and (d) of this rule, an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action or within the time fixed by the court. An objection to the proposed use, sale, or lease of property is governed by Rule 9014. | **(b) Objection.** Except as provided in (c) and (d), an objection to a proposed use, sale, or lease of property must be filed and served at least 7 days before the date set for the proposed action or within the time set by the court. Rule 9014 governs the objection. |
| (c) SALE FREE AND CLEAR OF LIENS AND OTHER INTERESTS. A motion for authority to sell property free and clear of liens or other interests shall be made in accordance with Rule 9014 and shall be served on the parties who have liens or other interests in the property to be sold. The notice required by subdivision (a) of this rule shall include the date of the hearing on the motion and the time within which objections may be filed and served on the debtor in possession or trustee. | **(c) Motion to Sell Property Free and Clear of Liens and Other Interests; Objection.** A motion for authority to sell property free and clear of liens or other interests must be made in accordance with Rule 9014 and served on the parties who have the liens or other interests. The notice required by (a) must include:<br>(1) the date of the hearing on the motion; and<br>(2) the time to file and serve an objection on the debtor in possession or trustee. |
| (d) SALE OF PROPERTY UNDER $2,500. Notwithstanding subdivision (a) of this rule, when all of the nonexempt | **(d) Notice of an Intent to Sell Property Valued at Less Than $2,500; Objection.** If all the nonexempt property of the estate |

| ORIGINAL | REVISION |
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| property of the estate has an aggregate gross value less than $2,500, it shall be sufficient to give a general notice of intent to sell such property other than inthe ordinary course of business to all creditors, indenture trustees, committeesappointed or elected pursuant to the Code, the United States trustee and other persons as the court may direct. An objection to any such sale may be filed and served by a party in interest within 14 days of the mailing of the notice, or within the time fixed by the court. An objection is governed by Rule 9014. | —in the aggregate—has a gross value less than $2,500, a notice of an intent to sell the property that is not in the ordinary course of business must be given to:<br>• all creditors;<br>• all indenture trustees;<br>• any committees appointed or elected under the Code;<br>• the United States trustee; and<br>• other persons as the court orders.<br>A party in interest may file and serve an objection within 14 days after the notice is mailed or within the time set by the court. Rule 9014 governs the objection. |
| (e) HEARING. If a timely objection is made pursuant to subdivision (b) or (d) of this rule, the date of the hearing thereon may be set in the notice given pursuant to subdivision (a) of this rule. | **(e) Notice of a Hearing on an Objection.** The date of a hearing on an objection under (b) or (d) may be set in the notice under (a). |
| (f) CONDUCT OF SALE NOT IN THE ORDINARY COURSE OF BUSINESS.<br>(1) *Public or Private Sale.* All sales not in the ordinary course of business may be by private sale or by public auction. Unless it is impracticable, an itemized statement of the property sold, the name of each purchaser, and the price received for each item or lot or for the property as a whole if sold in bulk shall be filed on completion of a sale. If the property is sold by an auctioneer, the auctioneer shall file the statement, transmit a copy thereof to the United States trustee, and furnish a copy to the trustee, debtor in possession, or chapter 13 debtor. If the property is not sold by an auctioneer, the trustee, debtor in possession, or chapter 13 debtor shall file the statement and transmit a copy | **(f) Conducting a Sale That Is Not in the Ordinary Course of Business.**<br>(1) ***Public Auction or Private Sale.***<br>(A) *Itemized Statement Required.* A sale that is not in the ordinary course of business may be made by public auction or private sale. Unless it is impracticable, when the sale is completed, an itemized statement must be filed that shows:<br>• the property sold;<br>• the name of each purchaser; and<br>• the consideration received for each item or lot or, if sold in bulk, for the entire property.<br>(B) *If by an Auctioneer.* If the property is sold by an auctioneer, the auctioneer must file the itemized statement and send a copy to the |

| ORIGINAL | REVISION |
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| thereof to the United States trustee.<br><br>(2) *Execution of Instruments.* After a sale in accordance with this rule the debtor, the trustee, or debtor in possession, as the case may be, shall execute any instrument necessary or ordered by the court to effectuate the transfer to the purchaser. | United States trustee and to either the trustee, debtor in possession, or Chapter 13 debtor.<br><br>(C) *If Not by an Auctioneer.* If the property is not sold by an auctioneer, the trustee, debtor in possession, or Chapter 13 debtor must file the itemized statement and send a copy to the United States trustee.<br><br>(2) ***Signing the Sale Documents.*** When a sale is complete, the debtor, trustee, or debtor in possession must sign any document that is necessary or court-ordered to transfer the property to the purchaser. |
| (g) SALE OF PERSONALLY IDENTIFIABLE INFORMATION.<br><br>(1) *Motion.* A motion for authority to sell or lease personally identifiable information under § 363(b)(1)(B) shall include a request for an order directing the United States trustee to appoint a consumer privacy ombudsman under § 332. Rule 9014 governs the motion which shall be served on: any committee elected under § 705 or appointed under § 1102 of the Code, or if the case is a chapter 11 reorganization case and no committee ofunsecured creditors has been appointed under § 1102, on the creditors included on the list of creditors filed under Rule 1007(d); and on such other entities as the court may direct. The motion shall be transmitted to the United States trustee.<br><br>(2) *Appointment.* If a consumer privacy ombudsman is appointed under § 332, no later than seven days before the hearing on the motion under § 363(b)(1)(B), the United States trustee shall file a notice of the | **(g) Selling Personally Identifiable Information.**<br><br>(1) ***Request for a Consumer-Privacy Ombudsman.*** A motion for authority to sell or lease personally identifiable information under § 363(b)(1)(B) must include a request for an order directing the United States trustee to appoint a consumer-privacy ombudsman under § 332. Rule 9014 governs the motion. It must be sent to the United States trustee and served on:<br><br>• any committee elected under § 705 or appointed under § 1102;<br><br>• in a Chapter 11 case in which no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and<br><br>• other entities as the court orders.<br><br>(2) ***Notice That an Ombudsman Has Been Appointed.*** If a consumer-privacy ombudsman is appointed, the United States trustee must give notice of the appointment at least 7 days |

| ORIGINAL | REVISION |
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| appointment, including the name and address of the person appointed. The United States trustee's notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. | before the hearing on any motion under § 363(b)(1)(B). The notice must give the name and address of the person appointed and include the person's verified statement that sets forth any connection with:<br>• the debtor, creditors, or any other party in interest;<br>• their respective attorneys and accountants;<br>• the United States trustee; and<br>• any person employed in the United States trustee's office. |
| (h) STAY OF ORDER AUTHORIZING USE, SALE, OR LEASE OF PROPERTY. An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise. | **(h)** ***Staying an Order Authorizing the Use, Sale, or Lease of Property.*** Unless the court orders otherwise, an order authorizing the use, sale, or lease of property (other than cash collateral) is stayed for 14 days after the order is entered. |

**Committee Note**

The language of Rule 6004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6005. Appraisers and Auctioneers** | **Rule 6005. Employing an Appraiser or Auctioneer** |
| The order of the court approving the employment of an appraiser or auctioneer shall fix the amount or rate of compensation. No officer or employee of the Judicial Branch of the United States or the United States Department of Justice shall be eligible to act as appraiser or auctioneer. No residence or licensing requirement shall disqualify an appraiser or auctioneer from employment. | A court order approving the employment of an appraiser or auctioneer must set the amount or rate of compensation. An officer or employee of the United States judiciary or United States Department of Justice is not eligible to act as an appraiser or auctioneer. No residence or licensing requirement disqualifies a person from being so employed. |

**Committee Note**

The language of Rule 6005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease** | **Rule 6006. Assuming, Rejecting, or Assigning an Executory Contract or Unexpired Lease** |
| (a) PROCEEDING TO ASSUME, REJECT, OR ASSIGN. A proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan, is governed by Rule 9014. | **(a) Procedure in General.** Rule 9014 governs a proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan. |
| (b) PROCEEDING TO REQUIRE TRUSTEE TO ACT. A proceeding by a party to an executory contract or unexpired lease in a chapter 9 municipality case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual's debt adjustmentcase, to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contractor lease is governed by Rule 9014. | **(b) Requiring a Trustee, Debtor in Possession, or Debtor to Assume or Reject a Contract or Lease.** In a Chapter 9, 11, 12, or 13 case, Rule 9014 governs a proceeding by a party to an executory contract or unexpired lease to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contract or lease. |
| (c) NOTICE. Notice of a motion made pursuant to subdivision (a) or (b) of this rule shall be given to the other party to the contract or lease, to other parties in interest as the court may direct, and, except in a chapter 9 municipality case, to the United States trustee. | **(c) Notice of a Motion.** Notice of a motion under (a) or (b) must be given to:<br>• the other party to the contract or lease;<br>• other parties in interest as the court orders; and<br>• except in a Chapter 9 case, the United States trustee. |
| (d) STAY OF ORDER AUTHORIZING ASSIGNMENT. An order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise. | **(d) Staying an Order Authorizing an Assignment.** Unless the court orders otherwise, an order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed for 14 days after the order is entered. |

| ORIGINAL | REVISION |
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| (e) LIMITATIONS. The trustee shall not seek authority to assume or assign multiple executory contracts or unexpired leases in one motion unless:<br><br>(1) all executory contracts or unexpired leases to be assumed or assigned are between the same parties or are to be assigned to the same assignee;<br><br>(2) the trustee seeks to assume, but not assign to more than one assignee, unexpired leases of real property; or<br><br>(3) the court otherwise authorizes the motion to be filed. Subject to subdivision (f), the trustee may join requests for authority to reject multiple executory contracts or unexpired leases in one motion. | **(e) Combining in One Motion a Request Involving Multiple Contracts or Leases.**<br><br>(1) ***Requests to Assume or Assign.*** The trustee must not seek authority to assume or assign multiple executory contracts or unexpired leases in one omnibus motion unless:<br><br>(A) they are all between the same parties or are to be assigned to the same assignee;<br><br>(B) the trustee seeks to assume—but not assign to more than one assignee—unexpired leases of real property; or<br><br>(C) the court allows the motion to be filed.<br><br>(2) ***Requests to Reject.*** Subject to (f), a trustee may join in one omnibus motion requests for authority to reject multiple executory contracts or unexpired leases. |
| (f) OMNIBUS MOTIONS. A motion to reject or, if permitted under subdivision (e), a motion to assume or assign multiple executory contracts or unexpired leases that are not between the same parties shall:<br><br>(1) state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion;<br><br>(2) list parties alphabetically and identify the corresponding contract or lease;<br><br>(3) specify the terms, including the curing of defaults, for each requested assumption or assignment;<br><br>(4) specify the terms, including the identity of each assignee and the | **(f) Content of an Omnibus Motion.** A motion to reject—or, if permitted under (e), a motion to assume or assign—multiple executory contracts or unexpired leases that are not between the same parties must:<br><br>(1) state in a conspicuous place that the parties' names and their contracts or leases are listed in the motion;<br><br>(2) list the parties alphabetically and identify the corresponding contract or lease;<br><br>(3) specify the terms, including how a default will be cured, for each requested assumption or assignment;<br><br>(4) specify the terms, including the assignee's identity and the adequate assurance of future performance by each assignee, for each requested assignment; |

| ORIGINAL | REVISION |
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| adequate assurance of future performance by each assignee, for each requested assignment;<br><br>(5) be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases; and<br><br>(6) be limited to no more than 100 executory contracts or unexpired leases. | (5) be numbered consecutively with other omnibus motions to reject, assume, or assign executory contracts or unexpired leases; and<br><br>(6) be limited to no more than 100 executory contracts or unexpired leases. |
| (g) FINALITY OF DETERMINATION. The finality of any order respecting an executory contract or unexpired lease included in an omnibus motion shall be determined as though such contract or lease had been the subject of a separate motion. | **(g) Determining the Finality of an Order Regarding an Omnibus Motion.** The finality of an order regarding any executory contract or unexpired lease included in an omnibus motion must be determined as though the contract or lease were the subject of a separate motion. |

**Committee Note**

The language of Rule 6006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6007. Abandonment or Disposition of Property** | **Rule 6007. Abandoning or Disposing of Property** |
| (a) NOTICE OF PROPOSED ABANDONMENT OR DISPOSITION; OBJECTIONS; HEARING. Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to the United States trustee, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code. A party in interest may file and serve an objection within 14 days of the mailing of the notice, or within the time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct. | **(a) Notice by the Trustee or Debtor in Possession.**<br>(1) ***In General.*** Unless the court orders otherwise, the trustee or debtor in possession must give notice of a proposed abandonment or disposition of property to:<br>• all creditors;<br>• all indenture trustees;<br>• any committees appointed or elected under the Code; and<br>• the United States trustee.<br>(2) ***Objection.*** A party in interest may file and serve an objection within 14 days after the notice is mailed or within the time set by the court. If a timely objection is filed, the court must set a hearing on notice to the United States trustee and other entities as the court orders. |

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| (b) MOTION BY PARTY IN INTEREST. A party in interest may fileand serve a motion requiring the trusteeor debtor in possession to abandon property of the estate. Unless otherwise directed by the court, the party filing themotion shall serve the motion and any notice of the motion on the trustee or debtor in possession, the United States trustee, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code. A party in interest may file and serve an objection within 14 days ofservice, or within the time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct. If the court grants the motion, the order effects the trustee's or debtor in possession's abandonment without further notice, unless otherwise directedby the court. | **(b) Motion by a Party in Interest.**<br>(1) ***Service.*** A party in interest may file and serve a motion to require the trustee or debtor in possession to abandon property of the estate. Unless the court orders otherwise, the motion (and any notice of it) must be served on:<br>• the trustee or debtor in possession;<br>• all creditors;<br>• all indenture trustees;<br>• any committees appointed or elected under the Code; and<br>• the United States trustee.<br>(2) ***Objection.*** A party in interest may file and serve an objection within 14 days after service or within the time set by the court. If a timely objection is filed, the court must set a hearing on notice to the United States trustee and other entities as the court orders.<br>(3) ***Order.*** Unless the court orders otherwise, an order granting the motion to abandon property effects the trustee's or debtor in possession's abandonment without further notice. |
| [(c) HEARING] | |

**Committee Note**

The language of Rule 6007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6008. Redemption of Property from Lien or Sale** | **Rule 6008. Redeeming Property from a Lien or a Sale to Enforce a Lien** |
| On motion by the debtor, trustee, or debtor in possession and after hearing on notice as the court may direct, the court may authorize the redemption of property from a lien or from a sale to enforce a lien in accordance with applicable law. | On motion by the debtor, trustee, or debtor in possession and after a hearing on notice as the court may order, the court may authorize property to be redeemed from a lien or from a sale to enforce a lien under applicable law. |

**Committee Note**

The language of Rule 6008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6009. Prosecution and Defense of Proceedings by Trustee or Debtor in Possession** | **Rule 6009. Right of the Trustee or Debtor in Possession to Prosecute and Defend Proceedings** |
| With or without court approval, the trustee or debtor in possession may prosecute or may enter an appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate before any tribunal. | With or without court approval, the trustee or debtor in possession may:<br>(a) prosecute—or appear in and defend—any pending action or proceeding by or against the debtor; or<br>(b) commence and prosecute in any tribunal an action or proceeding on the estate's behalf. |

**Committee Note**

The language of Rule 6009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6010. Proceeding to Avoid Indemnifying Lien or Transfer to Surety** | **Rule 6010. Avoiding an Indemnifying Lien or a Transfer to a Surety** |
| If a lien voidable under § 547 of the Code has been dissolved by the furnishing of a bond or other obligation and the surety thereon has been indemnified by the transfer of, or the creation of a lien upon, nonexempt property of the debtor, the surety shall be joined as a defendant in any proceeding to avoid the indemnifying transfer or lien. Such proceeding is governed by the rules in Part VII. | This rule applies if a lien voidable under § 547 has been dissolved by furnishing a bond or other obligation, and the surety has been indemnified by the transfer of or creation of a lien on the debtor's nonexempt property. The surety must be joined as a defendant in any proceeding to avoid that transfer or lien. Part VII governs the proceeding. |

**Committee Note**

The language of Rule 6010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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| **Rule 6011. Disposal of Patient Records in Health Care Business Case** | **Rule 6011. Claiming Patient Records Scheduled for Destruction in a Health-Care-Business Case** |
| (a) NOTICE BY PUBLICATION UNDER § 351(1)(A). A notice regarding the claiming or disposing of patient records under § 351(1)(A) shall not identify any patient by name or other identifying information, but shall:<br><br>(1) identify with particularity the health care facility whose patient records the trustee proposes to destroy;<br><br>(2) state the name, address, telephone number, email address, and website, if any, of a person from whom information about the patient records may be obtained;<br><br>(3) state how to claim the patient records; and<br><br>(4) state the date by which patient records must be claimed, and that if they are not so claimed the records will be destroyed. | **(a) Notice by Publication About the Records.** A notice by publication about destroying or claiming patient records under § 351(1)(A) must not identify any patient by name or contain other identifying information. The notice must:<br><br>(1) identify with particularity the health-care facility whose patient records the trustee proposes to destroy;<br><br>(2) state the name, address, telephone number, e-mail address, and website (if any) of the person from whom information about the records may be obtained;<br><br>(3) state how to claim the records and the final date for doing so; and<br><br>(4) state that if they are not claimed by that date, they will be destroyed. |
| (b) NOTICE BY MAIL UNDER § 351(1)(B). Subject to applicable nonbankruptcy law relating to patient privacy, a notice regarding the claiming or disposing of patient records under § 351(1)(B) shall, in addition to including the information in subdivision (a), direct that a patient's family member or other representative who receives the notice inform the patient of the notice. Any notice under this subdivision shall be mailed to the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, to the Attorney General of the State where the health care facility is located, and to any | **(b) Notice by Mail About the Records.**<br><br>(1) ***Required Information.*** Subject to applicable nonbankruptcy law relating to patient privacy, a notice by mail about destroying or claiming patient records under § 351(1)(B) must:<br><br>(A) include the information described in (a); and<br><br>(B) direct a family member or other representative who receives the notice to tell the patient about it.<br><br>(2) ***Mailing.*** The notice must be mailed to:<br><br>• the patient; |

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| insurance company known to have provided health care insurance to the patient. | • any family member or other contact person whose name and address have been given to the trustee or debtor for providing information about the patient's health care;<br>• the Attorney General of the State where the health-care facility is located; and<br>• any insurance company known to have provided health-care insurance to the patient. |
| (c) PROOF OF COMPLIANCE WITH NOTICE REQUIREMENT. Unless the court orders the trustee to file proof of compliance with § 351(1)(B) under seal, the trustee shall not file, but shall maintain, the proof of compliance for a reasonable time. | **(c) Proof of Compliance with Notice Requirements.** Unless the court orders the trustee to file a proof of compliance with § 351(1)(B) under seal, the trustee must keep the proof of compliance for a reasonable time but not file it. |
| (d) REPORT OF DESTRUCTION OF RECORDS. The trustee shall file, no later than 30 days after the destruction of patient records under § 351(3), a report certifying that the unclaimed records have been destroyed and explaining the method used to effect the destruction. The report shall not identify any patient by name or other identifying information. | **(d) Report on the Destruction of Unclaimed Records.** Within 30 days after a patient's unclaimed records have been destroyed under § 351(3), the trustee must file a report that certifies the destruction and explains the method used. The report must not identify any patient by name or by other identifying information. |

**Committee Note**

The language of Rule 6011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

# TAB 9

**MEMORANDUM**

**DATE:** March 3, 2023

**TO:** Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules

**FROM:** Catherine T. Struve

**RE:** Project on self-represented litigants' filing and service

Thank you for the illuminating discussions of this project during the fall 2022 advisory committee meetings. Those discussions generated further topics for investigation. By the time of the spring 2023 advisory committee meetings, I hope to have conducted further interviews that may shed light on some of the factual questions that came up during the fall meetings. Part I of this memo briefly summarizes a number of those questions, which concern increases to electronic access to court by self-represented litigants (whether via CM/ECF or alternative means) and service by self-represented litigants on CM/ECF participants. The latter topic – namely, whether it may be desirable to eliminate the rules' requirement for paper service on CM/ECF participants by litigants who lack CM/ECF access – also generated a technical question about how such a change might affect the operation of the "three-day rule" in the rules' time-computation provisions. That query is a facet of a more general question: whether such a change would affect the operation of time periods that are measured after service of a paper. Part II of this memo addresses that question.

A fuller discussion of the self-represented litigants' filing and service project can be found in my August 2022 memo, which was included in the fall 2022 advisory committee agenda books. Under the national electronic-filing rules that took effect in 2018, self-represented litigants presumptively must file non-electronically, but they can file electronically if authorized to do so by court order or local rule.[1] In late 2021, in response to a number of proposals

1 *See* Civil Rule 5(d)(3); Appellate Rule 25(a)(2)(B); Bankruptcy Rules 5005(a)(2) and 8011(a)(2)(B); and Criminal Rule 49(b)(3). The Civil, Bankruptcy, and Appellate Rules permit courts – by order or "by a local rule that includes reasonable exceptions" to *require* self-represented litigants to file electronically. By contrast, the Criminal Rule does not authorize a court to *require* electronic filing by a self-represented litigant. *See* Part I.A.1 of my August 2022 memo.

submitted to the advisory committees,[2] a cross-committee working group was formed to study whether developments since 2018 provide a reason to alter the rules' approach to e-filing by self-represented litigants. This working group includes the reporters for the Appellate, Bankruptcy, Civil, and Criminal Rules advisory committees as well as attorneys from the Rules Committee Support Office and researchers from the Federal Judicial Center (FJC). The working group's efforts have been informed by a study conducted by Tim Reagan, Carly Giffin, and Roy Germano of the FJC. The final version of the FJC report became available in May 2022.[3]

## I. Topics currently under investigation

Through inquiries between now and the time of the spring meetings, I hope to gather some answers to questions that surfaced during the fall 2022 discussions. Those questions concern three principal topics: access to CM/ECF for self-represented litigants; exempting self-represented litigants from the requirement of separate service on CM/ECF participants; and alternative (non-CM/ECF) modes of electronic access and notice for self-represented litigants.

### A. Access to CM/ECF for self-represented litigants

The advisory committees have had varying discussions, so far, concerning the possibility of amending one or more of the national sets of rules to broaden self-represented litigants' access to CM/ECF. The types of potential amendments under discussion would not require the use of CM/ECF by self-represented litigants, but could switch the default rule (that is, provide a presumption of voluntary access to CM/ECF – for non-incarcerated litigants[4] – unless a court acted to deny such access) or could set a standard for a court's consideration of whether to grant such access.[5] Participants in the discussions raised a number of concerns that could usefully be investigated by inquiries with selected courts that currently provide broader access to CM/ECF for self-represented litigants.

The inquiries in this regard will focus on how self-represented litigants' access to

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2 *See, e.g.*, Suggestion No. 21-CV-J (Sai) (proposing adoption of nationwide presumptive permission for self-represented litigants to file electronically); Suggestion No. 20-CV-EE (John Hawkinson) (proposing that if the requirement of permission by court order or local rule is retained, then the national rules could be amended to address the standard for granting permission).

3 See Tim Reagan et al., Federal Courts' Electronic Filing by Pro Se Litigants (FJC 2022), available at https://www.fjc.gov/content/368499/federal-courts-electronic-filing-pro-se-litigants ("FJC Study").

4 I will inquire about the courts' approach to incarcerated self-represented filers as well. Based on our study so far, I expect to hear that the courts that grant CM/ECF access to non-incarcerated self-represented litigants typically do not extend that access to incarcerated self-represented litigants.

5 As to the latter question, it is worth noting that in a minority of district courts CM/ECF access appears to be flatly unavailable to self-represented litigants – an approach that seems out of step with a majority of the district courts around the country. See FJC Study, supra note 3, at 7.

CM/ECF works in the districts that offer it, and perhaps also how it could work in future. For example, how are self-represented litigants identified for CM/ECF purposes, given that they lack attorney ID numbers? How do courts handle CM/ECF docketing errors (e.g., wrong event or wrong case) by self-represented litigants? Does the court require training on use of CM/ECF, and how is that training provided?[6] Has the clerk's office experienced burdens and/or benefits as a result of CM/ECF access by self-represented litigants? Are inappropriate filings more troublesome when made by a CM/ECF user, especially as compared to paper filings by similarly situated users? Have self-represented litigants inappropriately shared their CM/ECF credentials? Does the version of CM/ECF matter? Is there a possibility for CM/ECF to be set so that a filing could be "gated," that is held for clerk's office review after it is uploaded into CM/ECF and before it is placed into the electronic docket?[7] What are the options and approaches for handling case-initiating filings (as distinct from filings in a case that has already been opened)? What resources would a court find necessary or useful if it were to permit or expand CM/ECF access for self-represented litigants?

### B. Exempting litigants from separate service on CM/ECF participants

As discussed in Part II, a separate question concerns whether to repeal the current rules' requirement that non-CM/ECF users serve CM/ECF users separately from the notice of electronic filing generated after a filing is scanned and uploaded into CM/ECF. Inquiries relating to that topic will focus on the logistics in districts[8] that have exempted self-represented litigants[9] from serving CM/ECF participants.

Relevant questions include: How do the self-represented litigants know who is in CM/ECF (and need not be separately served) and who is not in CM/ECF (such that separate service is still required)?[10] Does the exemption only concern service on CM/ECF participants, or

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6 It would be useful to inquire about training both for self-represented litigants and for attorneys. See, e.g., http://www.cod.uscourts.gov/Portals/0/Documents/CMECF/Required_Reading_for_Electronic_Filing.pdf.

7 The FJC Study reports a practice that is somewhat analogous, albeit with respect to case-initiating filings. A number of courts permit attorneys to file complaints via CM/ECF without opening a new case file; the filing goes into a shell case, and the clerk's office then (if appropriate) opens the new case file and transfers the filing into it. See FJC Study, supra note 3, at 6.

8 Local provisions indicate that these districts include the District of Arizona and the Southern District of New York.

9 On this set of issues, the inquiry should focus on both incarcerated and non-incarcerated litigants. Indeed, relief from the burden of making paper service may be particularly important for a litigant who must pay for postage out of a prison account.

10 Litigants who file via CM/ECF receive a system-generated notice of electronic filing that

does it also extend to service on non-CM/ECF participants who have opted into an electronic-noticing program? Have the courts experienced any downsides to exempting litigants from the separate service requirement? (For example, has the clerk's office experienced any new or additional burden as a result of the change?) Does the fact that a filing is sealed make any difference? Are there any paper filings that do *not* get scanned and uploaded into CM/ECF? (Also, for purposes of comparison, how are filing and service handled when a CM/ECF user files a document under seal?)

A discrete set of questions, for these districts, concerns how they treat time periods measured from service when the service is effected through CM/ECF but the filing was filed other than through CM/ECF. (This, of course, is the topic discussed in Part II of this memo.) Questions include: What is the typical time interval between the time the clerk's office receives a paper filing and the time that the clerk's office (having scanned it) uploads it into CM/ECF? For time periods measured after service, what date is treated as the date of service – the date a paper filing is received by the clerk's office, or the date that the filing is later uploaded into CM/ECF by the clerk's office? If the date of receipt by the clerk's office is used, then (1) how does the recipient know the date of receipt and (2) are an extra three days added to the relevant time period?

### C. Alternative (non-CM/ECF) modes of electronic access

This inquiry will seek further data on alternative methods of access for self-represented litigants – both for filing their own papers and for receiving others' filings in the case. Alternative modes of filing include email or portal submissions. A court could also provide a non-CM/ECF user with an alternative means of access to electronic noticing of other litigants' filings.

Inquiries on these topics will include: How have courts used portals or email submissions, and how have they handled virus scanning, file size, and other technical problems? What are the benefits and burdens to the clerk's office of an email or portal submission option for self-represented litigants? Does a litigant who files by email or by uploading to a portal qualify for the timing treatment accorded to electronic filing?[11] If the court provides access to

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says who is being automatically served and who is not. Paper filers will not receive the notice of electronic filing (unless, perhaps, they are registered for electronic noticing). We have speculated that such filers might instead draw inferences from a party's status as counseled or self-represented, or from the contact information listed on the docket sheet; or they might ask the clerk's office.

11 Under the time-computation rules, those using "electronic filing" presumptively may file up to midnight in the court's time zone, whereas those using "other means" of filing must file before the scheduled closing of the clerk's office. See Bankruptcy Rule 9006(a)(4); Civil Rule 6(a)(4); Criminal Rule 45(a)(4). Appellate Rule 26(a)(4) includes a few more tailored approaches for

electronic noticing, what benefits and challenges has the court encountered with that program?[12]

## II. The application of time periods measured from service, when a paper is filed by a non-CM/ECF participant

The Appellate, Bankruptcy, Civil, and Criminal Rules require that litigants serve their filings[13] on all other parties to the litigation. But because notice through CM/ECF constitutes a method of service, the rules effectively exempt CM/ECF filers from separately serving their papers on persons that are registered users of CM/ECF. By contrast, the rules can be read to require non-CM/ECF filers to serve their papers on all other parties, even those that are CM/ECF users.

A review of Civil Rule 5 illustrates the general approach.[14] Civil Rule 5(a)(1) sets the general requirement that litigation papers "must be served on every party."[15] Civil Rule 5(b)(2)(E) provides that one way to serve a paper is by "sending it to a registered user by filing it with the court's electronic-filing system."[16] Civil Rule 5(d)(1)(B) requires a certificate of service for every filing, except that "[n]o certificate of service is required when a paper is served by filing it with the court's electronic-filing system."[17]

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particular filing scenarios, but adopts the same basic idea that electronic filers get the latest deadline – midnight in the relevant time zone.

This feature of the time-computation rules is currently under study. See generally Tim Reagan et al., Electronic Filing Times in Federal Courts (FJC 2022), available at https://www.fjc.gov/content/365889/electronic-filing-times-federal-courts .

12 Questions could include whether the electronic noticing also provides a means of electronic access to the document that is the subject of the notice, and whether the electronic noticing encompasses both other parties' filings and also court orders.

13 The rules provide separately for the service of case-initiating filings. See, e.g., Civil Rule 4 (addressing service of summons and complaint). The discussion here focuses on filings subsequent to the initiation of a case.

14 Bankruptcy Rule 7005 expressly applies Civil Rule 5 to adversary proceedings in a bankruptcy. The footnotes that follow cite provisions in Appellate Rule 25, Bankruptcy Rule 8011 (concerning appeals in bankruptcy cases), and Criminal Rule 49 that are similar to those in Civil Rule 5.

15 See also Appellate Rule 25(b) ("Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review."); Bankruptcy Rule 8011(b) ("Unless a rule requires service by the clerk, a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal."); Criminal Rule 49(a)(1) ("Each of the following must be served on every party: any written motion (other than one to be heard ex parte), written notice, designation of the record on appeal, or similar paper.").

16 See also Appellate Rule 25(c)(2)(A); Criminal Rule 49(a)(3)(A).

17 See also Appellate Rule 25(d)(1); Criminal Rule 49(b)(1).

In a case where all parties are represented by counsel,[18] these provisions combine to exempt the litigants from any requirement that they separately serve other litigants; their filings via CM/ECF automatically effect service on all parties. In a case that involves one or more self-represented litigants, however, the situation is more complicated. Service on a self-represented litigant can only be made via CM/ECF if the self-represented litigant is a registered user of CM/ECF – which occurs only if the litigant receives permission (to use CM/ECF) by court order or local rule.[19]

As for service by a self-represented, non-CM/ECF-using, litigant on a registered user of CM/ECF, one might argue – as a policy matter – that separate service is just as unnecessary as it is when the filer is a registered user of CM/ECF. Because clerk's offices routinely scan paper filings and upload them into CM/ECF, registered users will receive a CM/ECF-generated notice of electronic filing each time a paper filing (or a filing submitted by email or via a portal) is uploaded into CM/ECF in one of their cases. However, a number of courts appear to interpret the current rules to require that a person filing by means other than CM/ECF must separately serve the filing, even when the recipient of the filing is a registered user of CM/ECF.[20]

Accordingly, if the policy judgment is made that non-CM/ECF users should not be required to serve CM/ECF users, it may be desirable to amend the national rules to clarify that they impose no such requirement. My August 2022 memo sketched one possible amendment, using Civil Rule 5 as the illustration.

But during the fall 2022 discussions, we realized that it is necessary to consider how such an amendment would interact with the "three-day rule" in the rules' time-computation provisions. The "three-day rule" provides a cushion of extra time for deadlines measured after

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18 Civil Rule 5(b)(1) presumptively requires that service on a represented party "must be made on the attorney." See also Appellate Rule 25(b); Criminal Rule 49(a)(2). And Civil Rule 5(d)(3)(A)'s presumptive requirement that "[a] person represented by an attorney must file electronically" guarantees, in practice, that any attorney appearing as counsel of record will be a registered user of CM/ECF. See also Appellate Rule 25(a)(2)(B)(i); Criminal Rule 49(b)(3)(A).

19 See footnote 1 and accompanying text.

20 See, e.g., Pro Se Handbook for Civil Suits, U.S. District Court, Northern District of Texas, § 6 ("If you and the opposing side are both ECF users, the ECF system will complete the service for you, and a Certificate of Service is not required. If either of you is not an ECF user, or if you learn that service sent through ECF did not reach the person, you must serve the document by other means …."), available at https://www.txnd.uscourts.gov/sites/default/files/documents/handbook.pdf; Electronic Submission For Pro Se Filers, U.S. District Court, Western District of Texas ("Service of pleadings filed in the drop box must be performed by the filing party."), available at https://www.txwd.uscourts.gov/filing-without-an-attorney/electronic-filing-for-pro-se/ .

service,[21] where the service is accomplished through a means that the rulemakers expected to include a time delay. Civil Rule 6(d) illustrates the mechanism:

> **Rule 6. Computing and Extending Time; Time for Motion Papers**
>
> * * *
>
> **(d) Additional Time After Certain Kinds of Service.** When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to), 3 days are added after the period would otherwise expire under Rule 6(a).

The Rule 5 sketch in the fall 2022 agenda books would not have worked properly with the three-day rule, due to the interaction of two features in that sketch: First, proposed Rule 5(b)(3) would have defined service on a CM/ECF user as "filing" without accounting for the possibility of delay between the paper's filing[22] and its uploading into CM/ECF. And second, Rule 6(d)'s three-day rule would not have applied to service under proposed Rule 5(b)(3), because by Rule 6(d)'s terms the extra three days apply only when service is made under Rules 5(b)(2)(C), (D), or (F). A different way of putting the problem is that, when adjusting what is considered "service," we need to be aware of how that adjustment affects the operation of time periods measured from the date of service.

Fortunately, there are ways to ensure that a proposed amendment accounts for the timing concerns reflected in the three-day rule. One simple way to do so is to adjust proposed Rule 5(b)(3) so that service via CM/ECF is not complete until the paper is actually in CM/ECF. The sketch that follows takes that approach.

In the course of preparing this memo, I became aware of one other consideration. The fall 2022 Rule 5(b) sketch sought to streamline the rule by redefining service on a CM/ECF user as filing. That still strikes me as the cleanest and simplest approach. But that approach needs to be

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21 For such deadlines in the Civil Rules, see, e.g., Rule 11(c)(2) (time for correcting a litigation paper after service of Rule 11 motion); Rule 15(a)(1)(B) (time to amend pleading as of right); Rule 15(a)(3) (time to respond to amended pleading); Rule 33(b)(2) (time to respond to interrogatories); Rule 34(b)(2)(A) (time to respond to request for documents or ESI); Rule 36(a)(3) (time to respond to requests for admission); Rules 38(b)(1) & (c) (time for making jury demand); Rule 59(c) (time to file affidavits in opposition to new trial motion); Rule 68(a) (time to respond to offer of judgment). (This is an illustrative, not exhaustive, list.)

22 Civil Rule 5(d)(2) provides that "[a] paper not filed electronically is filed by *delivering* it: (A) *to the clerk*; or (B) to a judge who agrees to accept it for filing, and who must then note the filing date on the paper and promptly send it to the clerk" (emphasis added). Thus, the clerk's receipt of the filing, not the clerk's later upload of the document into CM/ECF, would seem to be defined as the time of "filing" under the current rule.

nuanced to account for the fact that certain papers (such as disclosures and discovery requests and responses) are served without being filed.[23] The sketch that follows accounts for this possibility by providing that, where a paper is not filed, service is governed by Rule 5(b)(2).

**Rule 5. Serving and Filing Pleadings and Other Papers**

* * *

**(b) Service: How Made.**

**(1) Serving an Attorney.** If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party.

**(2) Service <u>on non-users of electronic-filing [and electronic-noticing] system[s]</u>** ~~in General~~. A paper is served under this rule <u>on [one who has not registered for the court's electronic-filing system] [one who has not registered for either the court's electronic-filing system or a court-provided electronic-noticing system]</u> by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or

(ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last known address--in which event service is complete upon mailing;

(D) leaving it with the court clerk if the person has no known address;

(E) ~~sending it to a registered user by filing it with the court's electronic-filing system or~~ sending it by ~~other~~ electronic means that the person consented to in writing--in ~~either of~~ which

23 See Civil Rule 5(d)(1)(A).

events service is complete upon ~~filing or~~ sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or

(F) delivering it by any other means that the person consented to in writing--in which event service is complete when the person making service delivers it to the agency designated to make delivery.

(3) ~~Using Court Facilities. [Abrogated (Apr. 26, 2018, eff. Dec. 1, 2018.)]~~ **Service on users of the court's electronic-filing [or electronic-noticing] system**.

(A) A paper that must be filed is served under this rule on a registered user of [either] the court's electronic-filing system [or a court-provided electronic-noticing system] by filing it.
(B) If the paper is filed via the court's electronic-filing system, service under Rule 5(b)(3)(A) is complete upon filing.
(C) If the paper is filed other than via the court's electronic-filing system, service under Rule 5(b)(3)(A) is complete when the paper is uploaded into[24] the court's electronic-filing system.[25]
(D) Service under Rule 5(b)(3)(A) is not effective if the filer learns that it did not reach the person to be served.
(E) Rule 5(b)(2) governs service of a paper that is not filed.

* * *

**(d) Filing.**

**(1) Required Filings; Certificate of Service.**

* * *

**(B) Certificate of Service.** No certificate of service is required when a paper is served ~~by filing it with the court's electronic-filing system~~ under subdivision (b)(3)(A). When a paper

24 "Uploaded into" is used here as a placeholder for the concept, which is that the relevant demarcation should be the point in time when the CM/ECF system generates the notice of electronic filing. It may be useful to consider other possible formulations; "entered in" has been suggested as an alternative.
25 This new provision would remove any need to include this type of service within Rule 6(d)'s three-day rule.

that is required to be served is served by other means:

> (i) if the paper is filed, a certificate of service must be filed with it or within a reasonable time after service; and
>
> (ii) if the paper is not filed, a certificate of service need not be filed unless filing is required by court order or by local rule.

* * *

The sketch above presents one way to lift the requirement of service on CM/ECF users. Other ways doubtless exist, but I present this sketch to illustrate that it is feasible to account for the timing concern that arose during the committees' fall 2022 discussions.

## III. Conclusion

This memo presents an interim report. I hope to have further information to share with the advisory committees by the spring meetings. If Part I's list of questions strikes you as incomplete, I welcome suggestions concerning additional questions that we should be asking.

# Consent Tab 1

# Consent Tab C1A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY AND PRIVACY SUBCOMMITTEE

SUBJECT: SUGGESTION ABOUT ELECTRONIC SIGNATURES

DATE: MARCH 2, 2023

Attorney A. Bradley Goodman has submitted Suggestion 22-BK-J, in which he suggests adoption of a national rule allowing debtors to sign petitions and schedules electronically and without the retention by their attorneys of the original documents with the wet signatures. He says that "it is time to take everything electronic, without exception." The Subcommittee considered this suggestion during its January 25 meeting.

At the spring 2022 meeting, the Advisory Committee accepted this Subcommittee's recommendation to take no further action on a suggestion by the Committee on Court Administration and Case Management that a national rule on electronic signatures of non-CM/ECF users be considered. The Advisory Committee agreed with the Subcommittee that a period of experience under local rules allowing the use of e-signature products would help inform any later decision to promulgate a national rule. Electronic signature technology will also likely develop and improve in the interim.

In light of that decision, **the Subcommittee recommends deferring any action on Mr. Goodman's suggestion for now**. Not enough has changed since last year to provide the experience that the Advisory Committee seeks, although some courts are beginning to consider retaining e-signature practices used during the pandemic. The rules committees' ongoing consideration of electronic filing by pro se litigants may also have implications for the e-

signature issue. If Mr. Goodman's suggestion is kept open on the Advisory Committee's docket, it could provide the vehicle for reopening the issue at a later time.