

PRELIMINARY DRAFT OF

Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure

Request for Comment

Comments are sought on Amendments to:

Appellate Rules 4, 5, 21, 25, 26, 27, 28.1, 29, 32, 35, and 40, and Forms 1, 5, 6, and New Form 7

Bankruptcy Rules 1010, 1011, 2002, 3002, 3002.1, 3007, 3012, 3015, 4003, 5009, 7001, 9006, 9009, and New Rule 1012, and Official Forms 11A, 11B, 106J, 201, 202, 204, 205, 206Sum, 206A/B, 206D, 206E/F, 206G, 206H, 207, 309A, 309B, 309C, 309D, 309E, 309F, 309G, 309H, 309I, 312, 313, 314, 315, 401, 410, 410A, 410S1, 410S2, 416A, 416B, 416D, 424, and Instructions, and New Official Forms 106J-2 and 113

Civil Rules 4, 6, and 82

Criminal Rules 4, 41, and 45

All Written Comments are Due by
February 17, 2015



THE UNITED STATES COURTS

Prepared by the
Committee on Rules of Practice and Procedure of the
Judicial Conference of the United States

AUGUST 2014

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COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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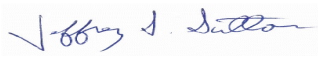
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MEMORANDUM

TO: THE BENCH, BAR, AND PUBLIC

FROM: Honorable Jeffrey S. Sutton, Chair 
Committee on Rules of Practice and Procedure

DATE: August 15, 2014

RE: Request for Comments on Proposed Rules and Forms Amendments

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The proposed amendments, rules committee reports, and other information are attached and posted on the Judiciary's website at:

<http://www.uscourts.gov/rulesandpolicies/rules/proposed-amendments.aspx>

Opportunity for Public Comment

All comments on these proposed amendments will be carefully considered by the rules committees, which are composed of experienced trial and appellate lawyers, judges, and scholars. Please provide any comments on the proposed amendments, whether favorable, adverse, or otherwise, as soon as possible but **no later than Tuesday, February 17, 2015**. All comments are made part of the official record and are available to the public.

Comments concerning the proposed amendments must be submitted electronically by following the instructions at:

<http://www.uscourts.gov/rulesandpolicies/rules/proposed-amendments.aspx>

Members of the public who wish to present testimony may appear at public hearings on these proposals. The Advisory Committees will hold hearings on the proposed amendments on the following dates:

- Appellate Rules and Forms in Phoenix, Arizona, on January 9, 2015, and in Washington, D.C., on February 17, 2015;
- Bankruptcy Rules and Official Forms in Washington, D.C., on January 23, 2015, and in Pasadena, California, on February 6, 2015;
- Civil Rules in Washington, D.C., on October 31, 2014, and in Phoenix, Arizona, on January 9, 2015; and
- Criminal Rules in Washington, D.C., on November 5, 2014, and in Nashville, Tennessee, on January 30, 2015.

If you wish to testify, you must notify the Committee in writing **at least 30 days before the scheduled hearing**. Requests to testify should be mailed to the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite 7-240, Washington, D.C. 20544.

After the public comment period, the Advisory Committees will decide whether to submit the proposed amendments to the Committee on Rules of Practice and Procedure. At this time, the Committee on Rules of Practice and Procedure has not approved these proposed amendments, except to authorize their publication for comment. The proposed amendments have not been submitted to or considered by the Judicial Conference or the Supreme Court.

The proposed amendments would become effective on December 1, 2016, if they are approved, with or without revision, by the relevant Advisory Committee, the Committee on Rules of Practice and Procedure, the Judicial Conference, and the Supreme Court, and if Congress does not act to defer, modify, or reject them. Except as otherwise noted, the revisions to the Official Bankruptcy Forms would become effective on December 1, 2015, if they are approved by the rules committees and the Judicial Conference.

If you have questions about the rulemaking process or pending rules amendments, please contact the Rules Committee Support Office at 202-502-1820 or visit <http://www.uscourts.gov/rulesandpolicies/rules.aspx>.

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COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

JEFFREY S. SUTTON
CHAIR

JONATHAN C. ROSE
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CHAIRS OF ADVISORY COMMITTEES

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SIDNEY A. FITZWATER
EVIDENCE RULES

MEMORANDUM

To: Judge Jeffrey S. Sutton, Chair
Standing Committee on Rules of Practice and Procedure

From: Judge Steven M. Colloton, Chair
Advisory Committee on Appellate Rules

Date: May 8, 2014 (revised June 6, 2014)

Re: Report of Advisory Committee on Appellate Rules

I. Introduction

The Advisory Committee on Appellate Rules met on April 28 and 29 in Newark, New Jersey. The Committee approved for publication five sets of proposed amendments, relating to (1) the inmate-filing provisions under Rules 4(c) and 25(a); (2) tolling motions under Rule 4(a)(4); (3) length limits for appellate filings; (4) amicus briefs in connection with rehearing; and (5) Rule 26(c)'s "three-day rule."

* * * * *

II. Action Items – for Publication

The Committee seeks approval for publication of five sets of proposed amendments as set forth in the following subsections.

A. Inmate filings: Rules 4(c)(1) and 25(a)(2)(C), Forms 1 and 5, and new Form 7

Under the Federal Rules of Appellate Procedure, documents are timely filed if they are received by the court on or before the due date. Rules 4(c)(1) and 25(a)(2)(C) offer an alternative way for inmates to establish timely filing of documents. If the requirements of the relevant rule are met, then the filing date is deemed to be the date the inmate deposited the document in the institution's mail system rather than the date the court received the document. *See generally Houston v. Lack*, 487 U.S. 266 (1988).

The Committee has studied the workings of the inmate-filing rules since 2007, in light of concerns expressed about conflicts in the case law, unintended consequences of the current language, and ambiguity in the current text. Must an inmate prepay postage to benefit from the rule? There are decisions saying that an inmate need not prepay postage if he uses a prison's system designed for legal mail, but must prepay postage if he does not use that system. Must an inmate file a declaration or notarized statement averring the date of filing to benefit from the rule? One court held, over a dissent from denial of rehearing en banc, that a document is untimely if there is no declaration or notarized statement, even when other evidence such as a postmark shows that the document was timely deposited in the prison mail system. When must an inmate submit a declaration designed to demonstrate timeliness? One circuit has published inconsistent decisions, holding in one case that the declaration must accompany the notice and in another that the declaration may be filed at a later date.

The Committee seeks approval to publish proposed amendments that are designed to clarify and improve the inmate-filing rules. The proposed amendments to Rules 4(c)(1) and 25(a)(2)(C) and Forms 1 and 5, and proposed new Form 7, are set out in the enclosure to this report.

The amendments to Rules 4(c)(1) and 25(a)(2)(C) would make clear that prepayment of postage is required for an inmate to benefit from the inmate-filing provisions, but that the use of an institution's legal mail system is not. The amendments clarify that a document is timely filed if it is accompanied by evidence—a declaration, notarized statement, or other evidence such as postmark and date stamp—showing that the document was deposited on or before the due date and that postage was prepaid. New Form 7 is a suggested form of declaration that would satisfy the Rule. Forms 1 and 5 (which are suggested forms of notices of appeal) are revised to include a reference alerting inmate filers to the existence of Form 7. The amendments also clarify that if sufficient evidence does not accompany the initial filing, then the court of appeals has discretion to permit the later filing of a declaration or notarized statement to establish timely deposit.

B. Tolling motions: Rule 4(a)(4)

The Committee seeks approval to publish the proposed amendment to Appellate Rule 4(a)(4) set out in the enclosure to this report. The amendment addresses a circuit split concerning whether a motion filed outside a non-extendable deadline under Civil Rules 50, 52, or 59 counts as "timely" under Rule 4(a)(4) if a court has mistakenly ordered an "extension" of the deadline for filing the motion.

Caselaw in the wake of *Bowles v. Russell*, 551 U.S. 205 (2007), holds that statutory appeal deadlines are jurisdictional but that nonstatutory appeal deadlines are nonjurisdictional claim-processing rules. The statutory appeal deadline for civil appeals is set by 28 U.S.C. § 2107. The statute does not mention so-called “tolling motions” filed in the district court that have the effect of extending the appeal deadline, but “§ 2107 was enacted against a doctrinal backdrop in which the role of tolling motions had long been clear.” 16A Wright et al., *Federal Practice & Procedure* § 3950.4. At the time of enactment, “caselaw stated that certain postjudgment motions tolled the time for taking a civil appeal.” *Id.* Commentators have presumed, therefore, that Congress incorporated the preexisting caselaw into § 2107, and that appeals filed within a recognized tolling period may be considered timely consistent with *Bowles*.

The federal rule on tolling motions, Appellate Rule 4(a)(4), provides that “[i]f a party timely files in the district court” certain post-judgment motions, “the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion.” A number of circuits have ruled that the Civil Rules’ deadlines for post-judgment motions are nonjurisdictional claim-processing rules. On this view, where a district court mistakenly “extends” the time for making such a motion, and no party objects to that extension, the district court has authority to decide the motion on its merits. But does the motion count as a “timely” one that, under Rule 4(a)(4), tolls the time to appeal? The Third, Seventh, Ninth, and Eleventh Circuits have issued post-*Bowles* rulings stating that such a motion does not toll the appeal time. *E.g.*, *Blue v. Int’l Bhd. of Elec. Workers Local Union 159*, 676 F.3d 579, 582-84 (7th Cir. 2012); *Lizardo v. United States*, 619 F.3d 273, 278-80 (3d Cir. 2010). Pre-*Bowles* caselaw from the Second Circuit accords with this position. The Sixth Circuit, however, has held to the contrary. *Nat’l Ecological Found. v. Alexander*, 496 F.3d 466, 476 (6th Cir. 2007).

The Committee feels it is important to clarify the meaning of “timely” in Rule 4(a)(4), because the conflict in authority arises from arguable ambiguity in the current Rule, and timely filing of a notice of appeal is a jurisdictional requirement. The Committee proposes to publish for comment an amendment to the Rule that would adopt the majority view—i.e., that postjudgment motions made outside the deadlines set by the Civil Rules are not “timely” under Rule 4(a)(4). The proposed amendment would work the least change in current law. And, as the court noted in *Blue*, 676 F.3d at 583, the majority approach tracks the spirit of the Court’s decision in *Bowles*, which held that the Court has “no authority to create equitable exceptions to jurisdictional requirements.” 551 U.S. at 214.

C. Length limits: Rules 5, 21, 27, 28.1, 32, 35, and 40, and Form 6

The Committee seeks approval to publish for comment amendments to Rules 5, 21, 27, 28.1, 32, 35, and 40, and Form 6, as set out in the enclosure to this report.

The genesis of this project was the suggestion that length limits set in terms of pages have been overtaken by advances in technology, and that use of page limits rather than type-volume limits invites gamesmanship by attorneys. The proposal would amend Rules 5, 21, 27, 35, and 40 to impose type-volume limits for documents prepared using a computer. For documents prepared without the aid of a computer, the proposed amendments would maintain the page limits currently set out in those rules.

A change from page limits to type-volume limits requires a conversion ratio from pages to words. The 1998 amendments transmuted the prior 50-page limit for briefs into a 14,000-word limit. This change appears to have been based on the assumption that one page was equivalent to 280 words (or 26 lines). While the estimate of 26 lines per page appears sound, research indicates that the estimate of 280 words per page is too high. A study of briefs filed under the pre-1998 rules shows that 250 words per page is closer to the mark. (See attached letter of D.C. Circuit Advisory Committee on Procedures, July 14, 1993.) The proposed amendments employ a conversion ratio of 250 words per page for Rules 5, 21, 27, 35, and 40. Although there was a division of opinion within the advisory committee about whether to alter the existing limits for briefs, the proposed amendments approved by the committee shorten Rule 32's word limits for briefs so as to reflect the pre-1998 page limits multiplied by 250 words per page. The proposals correspondingly shorten the word limits set by Rule 28.1 for cross-appeals. A court that desired to maintain the longer word limits could choose, of course, to accept longer briefs.

During consideration of the proposed shift to type-volume limits, the Committee also observed that the rules do not provide a uniform list of the items that can be excluded when computing a document's length. The proposed amendments would add a new Rule 32(f) setting forth such a list.

D. Amicus filings in connection with rehearing: Rule 29

The Committee seeks approval to publish for comment proposed amendments to Rule 29, as set out in the enclosure to this report. The amendments would re-number the existing Rule as Rule 29(a) and would add a new Rule 29(b) to set default rules for the treatment of amicus filings in connection with petitions for rehearing. The proposed amendment would not require any circuit to accept amicus briefs, but would establish guidelines for the filing of briefs when they are permitted.

Attorneys who file amicus briefs in connection with petitions for rehearing understandably seek clear guidance about the filing deadlines for, and permitted length of, such briefs. There is no federal rule on the topic. *See Fry v. Exelon Corp. Cash Balance Pension Plan*, 576 F.3d 723, 725 (7th Cir. 2009) (Easterbrook, C.J., in chambers). Most circuits have no local rule on point, and attorneys have reported frustration with their inability to obtain accurate guidance.

The proposed amendments would establish default rules concerning timing and length of amicus briefs in connection with petitions for rehearing. In addition, they would incorporate (for the rehearing stage) most of the features of current Rule 29, including the authorization for certain governmental entities to file amicus briefs without party consent or court permission. Proposed Rule 29(b) would require other entities and persons to obtain leave to file an amicus brief in connection with petitions for rehearing, in part because courts may wish to deny leave despite consent of the parties where a putative amicus would cause recusal of a circuit judge. A circuit could alter the default federal rules concerning amicus filings in connection with rehearing petitions by local rule or by order in a case.

E. Amending the “three-day rule”: Rule 26(c)

The Committee seeks approval to publish for comment the proposed amendment to Rule 26(c) that is set out in the enclosure to this report. The amendment would implement a recommendation by the Standing Committee’s CM/ECF Subcommittee that the “three-day rule” in each set of national Rules be amended to exclude electronic service. The three-day rule adds three days to a given period if that period is measured after service and service is accomplished by certain methods. Now that electronic service is well-established, it no longer makes sense to include that method of service among the types of service that trigger application of the three-day rule.

The proposed amendment to Rule 26(c) accomplishes the same result as the proposed amendments to Civil Rule 6, Criminal Rule 45, and Bankruptcy Rule 9006, but does so using different wording in light of Appellate Rule 26(c)’s current structure. Under that structure, the applicability of the three-day rule depends on whether the paper in question is delivered on the date of service stated in the proof of service; if so, then the three-day rule is inapplicable. The change would thus be accomplished by amending the rule to state that a paper served electronically is deemed (for this purpose) to have been delivered on the date of service stated in the proof of service.

* * * * *

U.S. Department of Justice

DNLetter:lcb

Telephone:
(202) 514-3602

Washington, D.C. 20530

JUL 14 1993

Honorable Abner J. Mikva
Chief Judge, United States Court of Appeals
for the District of Columbia Circuit
333 Constitution Ave., N.W.
Washington, D.C. 20001-2866

Honorable Ruth Bader Ginsburg
Circuit Judge, United States Court of Appeals
for the District of Columbia Circuit
333 Constitution Ave., N.W.
Washington, D.C. 20001-2866

Dear Chief Judge Mikva and Judge Ginsburg:

When I sent you the final version of the Advisory Committee's recommended local rule changes, I indicated that we would be conducting a survey to determine the proper number of words to allow in briefs under the new proposed Rule 28. (As you recall, the Committee recommended that the length requirement for briefs be shifted from a page maximum to a word maximum.) Jack Goodman of the Advisory Committee, and I have now conducted that survey, although we have had difficulty gathering data from law firms.

For the reasons described below, we recommend that the Court adopt a maximum word rule based on an average of 250 words per page, which would translate to a limit of 12,500 words for a party's main brief, 6,250 for a reply brief, and 8,750 for an intervenor or amicus curiae brief. (For shorter documents, such as petitions for rehearing and motions, the Committee had recommended that the Court retain the current page limits rather than switching to a word count, although these documents could now be prepared in proportional fonts of acceptable size.)

Mr. Goodman and I analyzed data first from the Department of Justice Civil Division archive of appellate briefs. We took ten briefs that were approximately 50 pages in length, and which did not contain what could reasonably be considered an excessive

number of single spaced footnotes or block quotes. We then also obtained from that archive ten reply briefs of approximately 25 pages in length, also avoiding briefs with too many footnotes or block quotes. By computer, we determined the total number of words in these briefs. In doing so, we began counting with the first page of the brief, and excluded the cover, the tables, and any addenda. Thus, we determined the number of words that would be contained in an acceptable 50 or 25 page brief that begins on the first page with a case caption and ends with a signature block. This computer counting included names and numbers in citations.

We found that the briefs of approximately 50 pages had an average total word count of 12,275 words, but some of the briefs were only 49 pages long. The average per page word count for this group was 247. For the reply briefs of approximately 25 pages, the average total word count was 6,244, with an average per page word count of 251.

We then obtained data from eight appellate briefs filed by the Federal Communications Commission and the law firm of Wilmer, Cutler & Pickering. The combined total average words per page from these briefs was 250 (although the briefs from the FCC averaged higher than that amount and the briefs from Wilmer, Cutler averaged lower than that amount).

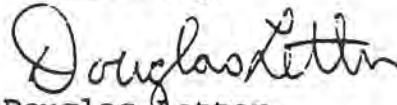
Based on these data, a brief with a maximum average of 250 words per page appears to be close to what the Court would expect to be the limit for "normal" briefs under the current rules. Consequently, Mr. Goodman and I think that if the Court adopted the word limits proposed above, those limits will on average be close to what the Court would currently find as the maximum allowed (although reply briefs would be longer than currently allowed since the Court has accepted our recommendation that, if a page length limit were used, reply briefs could be 25 pages -- as FRAP allows -- rather than the current 20).

We note that this proposal means that there will be some variations in brief page numbers, and briefs within the maximum word limit will sometimes exceed 50 pages. As described in our earlier recommendation, however, we expect that adoption of this proposed rule will lead to extensive use of proportional fonts, and many briefs will actually be shorter in pages than currently received briefs, but more easily legible.

Mr. Goodman and I will continue to attempt to obtain data from several law firms to make sure that the data we have

developed are not unusual in some unknown way. I have attached to this letter a copy of the gross data that we developed. Please contact me if any further explanation is needed.

Sincerely,



Douglas Letter
Chairman

Advisory Committee on Procedures

cc: Ron Garvin
Clerk, U.S. Court of Appeals for the
District of Columbia Circuit
333 Constitution Ave., N.W., Room 5423
Washington, D.C. 20001-2866

Mark Langer
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333 Constitution Ave., N.W.
Washington, D.C. 20001-2866

OVERALL WORDS PER PAGE: 249 WORDS PER 54 LINES W/DOUBLE SPACE

LIST OF BRIEFS WITH 49 TO 50 PAGES

	WORD COUNT
ANESTHESIOLOGISTS AFFILIATED (49 PAGES)	b11,371/pp232
ARMSTRONG (50 PAGES)	b11,793/pp236
TREASURY V. FLRA (50 PAGES)	b12,070/pp241
PARKER V. RYAN (50 PAGES)	b12,777/pp256
WABASH VALLEY POWER ASSOCIATION, INC. (49 PAGES) . .	b12,438/pp254
KHADER MUSA HAMIDE (50 PAGES)	b11,402/pp228
MT. DIABLO HOSPITAL MEDICAL CENTER (50 PAGES) . .	b13,292/pp266
PENTHOUSE INTERNATIONAL, LTD. (49 PAGES)	b13,246/pp270
PETER ROSETTI (50 PAGES)	b12,345/pp247
AMALGAMATED TRANSIT UNION (50 PAGES)	b12,019/pp240
TOTAL AVERAGE WORDS PER BRIEF/PAGE	<u>b12,275/pp247</u>

LIST OF REPLY BRIEFS WITH 24 TO 25 PAGES

CARTERET REPLY (25 PAGES)	r5,977/pp239
DAVIDSON V. SULLIVAN (24 PAGES)	r5,864/pp244
HAITIAN REFUGEE CENTER, INC. (25 PAGES)	r6,787/pp271
JONES V. SULLIVAN (25 PAGES)	r6,141/pp246
MARTINEZ V. LANNOM (25 PAGES)	r6,856/pp274
TASHIMA (25 PAGES)	r6,297/pp252
ANNI WATERFLOW (25 PAGES)	r6,417/pp257
WINSTAR (25 PAGES)	r5,667/pp227
JOHNSON V. HHS (25 PAGES)	r6,382/pp255
FARMER (25 PAGES)	r6,053/pp242
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BRIEFS

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FCC	49	11660	237.9591837
FCC	48	13836	288.25
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FCC	47	12563	267.2978723
WC&P	14	3037	216.9285714
WC&P	21	4806	228.8571429
WC&P	19	4230	222.6315789
AVGE.	34	7945	230.2953813

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF APPELLATE PROCEDURE***

1 **Rule 4. Appeal as of Right—When Taken**

2 * * * * *

3 **(c) Appeal by an Inmate Confined in an Institution.**

4 (1) If an inmate confined in an institution files a
5 notice of appeal in either a civil or a criminal
6 case, the notice is timely if it is deposited in the
7 institution's internal mail system on or before the
8 last day for filing. ~~If an institution has a system~~
9 ~~designed for legal mail, the inmate must use that~~
10 ~~system to receive the benefit of this rule. Timely~~
11 ~~filing may be shown by a declaration in~~
12 ~~compliance with 28 U.S.C. § 1746 or by a~~
13 ~~notarized statement, either of which must set~~

* New material is underlined in red; matter to be omitted is lined through.

2 FEDERAL RULES OF APPELLATE PROCEDURE

14 ~~forth the date of deposit and state that first class~~

15 ~~postage has been prepaid. and:~~

16 (A) it is accompanied by:

17 (i) a declaration in compliance with 28

18 U.S.C. § 1746—or a notarized

19 statement—setting out the date of

20 deposit and stating that first-class

21 postage is being prepaid; or

22 (ii) evidence (such as a postmark or date

23 stamp) showing that the notice was so

24 deposited and that postage was

25 prepaid; or

26 (B) the court of appeals exercises its discretion

27 to permit the later filing of a declaration or

28 notarized statement that satisfies

29 Rule 4(c)(1)(A)(i).

Committee Note

Rule 4(c)(1) is revised to streamline and clarify the operation of the inmate-filing rule. The second sentence of the former Rule—which had required the use of a “system designed for legal mail” when one existed—is deleted. This change is designed to clarify that an inmate receives the benefit of the rule whether the inmate uses a prison’s legal mail system or a prison’s general mail system, and that an inmate is required to show timely deposit and prepayment of postage whether or not the inmate uses a prison’s legal mail system.

The Rule is amended to specify that a notice is timely if it is accompanied by a declaration or notarized statement stating the date the notice was deposited in the institution’s mail system and attesting to the prepayment of first-class postage. The declaration must state that first-class postage “is being prepaid,” not (as directed by the former Rule) that first-class postage “has been prepaid.” This change reflects the fact that inmates may need to rely upon the institution to affix postage subsequent to the deposit of the document in the institution’s mail system. New Form 7 in the Appendix of Forms sets out a suggested form of the declaration.

The amended rule also provides that a notice is timely without a declaration or notarized statement if other evidence accompanying the notice shows that the notice

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was deposited on or before the due date and that postage was prepaid. If the notice is not accompanied by evidence that establishes timely deposit and prepayment of postage, then the court of appeals has discretion to accept a declaration or notarized statement at a later date.

1 **Rule 25. Filing and Service**

2 **(a) Filing.**

3 * * * * *

4 **(2) Filing: Method and Timeliness.**

5 * * * * *

6 **(C) Inmate filing.** A paper filed by an inmate

7 confined in an institution is timely if it

8 is deposited in the institution's internal

9 mailing system on or before the last day for

10 filing. ~~If an institution has a system~~

11 ~~designed for legal mail, the inmate must use~~

12 ~~that system to receive the benefit of this~~

13 ~~rule. Timely filing may be shown by a~~

14 ~~declaration in compliance with 28 U.S.C. §~~

15 ~~1746 or by a notarized statement, either of~~

16 ~~which must set forth the date of deposit and~~

6 FEDERAL RULES OF APPELLATE PROCEDURE

17 ~~state that first class postage has been~~

18 ~~prepaid.~~ and:

19 (i) it is accompanied by:

20 • a declaration in compliance with

21 28 U.S.C. § 1746—or a notarized

22 statement—setting out the date of

23 deposit and stating that first-class

24 postage is being prepaid; or

25 • evidence (such as a postmark or

26 date stamp) showing that the

27 paper was so deposited and that

28 postage was prepaid; or

29 (ii) the court of appeals exercises its

30 discretion to permit the later filing of a

31 declaration or notarized statement that

32 satisfies Rule 25(a)(2)(C)(i).

Committee Note

Rule 25(a)(2)(C) is revised to streamline and clarify the operation of the inmate-filing rule. The second sentence of the former Rule—which had required the use of a “system designed for legal mail” when one existed—is deleted. The purposes of the Rule are served whether the inmate uses a system designed for legal mail or a system designed for nonlegal mail.

The Rule is amended to specify that a paper is timely if it is accompanied by a declaration or notarized statement stating the date the paper was deposited in the institution’s mail system and attesting to the prepayment of first-class postage. The declaration must state that first-class postage “is being prepaid,” not (as directed by the former Rule) that first-class postage “has been prepaid.” This change reflects the fact that inmates may need to rely upon the institution to affix postage subsequent to the deposit of the document in the institution’s mail system. New Form 7 in the Appendix of Forms sets out a suggested form of the declaration.

The amended rule also provides that a paper is timely without a declaration or notarized statement if other evidence accompanying the paper shows that the paper was deposited on or before the due date and that postage was prepaid. If the paper is not accompanied by evidence that establishes timely deposit and prepayment of postage, then

8 FEDERAL RULES OF APPELLATE PROCEDURE

the court of appeals has discretion to accept a declaration or notarized statement at a later date.

1 **Form 1. Notice of Appeal to a Court of Appeals From**
2 **a Judgment or Order of a District Court**

3 United States District Court for the _____
4 District of _____
5 File Number _____
6

A.B., Plaintiff	Notice of Appeal
v.	
C.D., Defendant	

7 Notice is hereby given that ___(here name all
8 parties taking the appeal)__, (plaintiffs) (defendants) in the
9 above named case,* hereby appeal to the United States
10 Court of Appeals for the _____ Circuit (from the final
11 judgment) (from an order (describing it)) entered in this
12 action on the _____ day of _____, 20___.

13 (s) _____
14 Attorney for _____
15 Address: _____

16 *[Note to inmate filers: If you are an inmate confined in an*
17 *institution and you seek the benefit of Fed. R. App. P.*
18 *4(c)(1), complete Form 7 (Declaration of Inmate Filing)*
19 *and file that declaration along with the Notice of Appeal.]*

* See Rule 3(c) for permissible ways of identifying appellants.

1 **Form 5. Notice of Appeal to a Court of Appeals from a**
2 **Judgment or Order of a District Court or a**
3 **Bankruptcy Appellate Panel**

4 United States District Court for the _____
5 District of _____
6

In re _____, Debtor _____, Plaintiff v. _____, Defendant

File No. _____

7 Notice of Appeal to United States Court of Appeals for the
8 _____ Circuit

9 _____, the plaintiff [or defendant or
10 other party] appeals to the United States Court of Appeals
11 for the _____ Circuit from the final judgment [or order
12 or decree] of the district court for the district of
13 _____ [or bankruptcy appellate panel of the
14 _____ circuit], entered in this case on _____, 20__
15 [here describe the judgment, order, or decree]
16 _____

17 The parties to the judgment [or order or decree]
18 appealed from and the names and addresses of their
19 respective attorneys are as follows:

20 Dated _____
21 Signed _____
22 *Attorney for Appellant*
23 Address: _____
24 _____

25 *[Note to inmate filers: If you are an inmate confined in an*
26 *institution and you seek the benefit of Fed. R. App. P.*
27 *4(c)(1), complete Form 7 (Declaration of Inmate Filing)*
28 *and file that declaration along with the Notice of Appeal.]*

1 **Form 7. Declaration of Inmate Filing**

2 _____
3 *[insert name of court, for example,*
4 *United States District Court for the District of Minnesota]*

5

<u>A.B., Plaintiff</u>
<u>v.</u>
<u>C.D., Defendant</u>

Case No. _____

6 I am an inmate confined in an institution. I
7 deposited the _____ [insert title of document, for
8 example, “notice of appeal”] in this case in the institution’s
9 internal mail system on _____ [insert date], and
10 first-class postage is being prepaid either by me or by the
11 institution on my behalf.

12 I declare under penalty of perjury that the foregoing is
13 true and correct (see 28 U.S.C. § 1746; 18 U.S.C. § 1621).

14 Sign your name here _____

15 Executed on _____ [insert date]

1 **Rule 4. Appeal as of Right—When Taken**

2 **(a) Appeal in a Civil Case.**

3 * * * * *

4 **(4) Effect of a Motion on a Notice of Appeal.**

5 (A) If a party ~~timely~~ files in the district court
6 any of the following motions under the
7 Federal Rules of Civil Procedure, and
8 does so within the time allowed by those
9 rules—the time to file an appeal runs for all
10 parties from the entry of the order disposing
11 of the last such remaining motion:

12 * * * * *

Committee Note

A clarifying amendment is made to subdivision (a)(4). Former Rule 4(a)(4) provided that “[i]f a party timely files in the district court” certain post-judgment motions, “the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion.”

Responding to a circuit split concerning the meaning of “timely” in this provision, the amendment adopts the majority approach and rejects the approach taken in *National Ecological Foundation v. Alexander*, 496 F.3d 466 (6th Cir. 2007). A motion made after the time allowed by the Civil Rules will not qualify as a motion that, under Rule 4(a)(4)(A), re-starts the appeal time—and that fact is not altered by, for example, a court order that sets a due date that is later than permitted by the Civil Rules, another party’s consent or failure to object to the motion’s lateness, or the court’s disposition of the motion without explicit reliance on untimeliness.

1 **Rule 5. Appeal by Permission**

2 * * * * *

3 (c) **Form of Papers; Number of Copies.** All papers
4 must conform to Rule 32(c)(2). ~~Except by the court's~~
5 ~~permission, a paper must not exceed 20 pages,~~
6 ~~exclusive of the disclosure statement, the proof of~~
7 ~~service, and the accompanying documents required by~~
8 ~~Rule 5(b)(1)(E).~~ An original and 3 copies must be
9 filed unless the court requires a different number by
10 local rule or by order in a particular case. Except by
11 the court's permission, and excluding the
12 accompanying documents required by
13 Rule 5(b)(1)(E):
14 (1) a handwritten or typewritten paper must not
15 exceed 20 pages; and

16 (2) a paper produced using a computer must comply
17 with Rule 32(g) and not exceed:
18 (A) 5,000 words; or
19 (B) 520 lines of text printed in a monospaced
20 face.

21 * * * * *

Committee Note

The page limits previously employed in Rules 5, 21, 27, 35, and 40 have been largely overtaken by changes in technology. For papers produced using a computer, those page limits are now replaced by type-volume limits. The type-volume limits were derived from the current page limits using the assumption that one page is equivalent to 250 words or to 26 lines of text. Papers produced using a computer must include the certificate of compliance required by Rule 32(g); Form 6 in the Appendix of Forms suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the type-volume limits and the page limit, the calculation excludes the accompanying documents required by Rule 5(b)(1)(E) and any items listed in Rule 32(f).

1 **Rule 21. Writs of Mandamus and Prohibition, and**
2 **Other Extraordinary Writs**

3 * * * * *

4 **(d) Form of Papers; Number of Copies.** All papers
5 must conform to Rule 32(c)(2). ~~Except by the court's~~
6 ~~permission, a paper must not exceed 30 pages,~~
7 ~~exclusive of the disclosure statement, the proof of~~
8 ~~service, and the accompanying documents required by~~
9 ~~Rule 21(a)(2)(C).~~ An original and 3 copies must be
10 filed unless the court requires the filing of a different
11 number by local rule or by order in a particular
12 case. Except by the court's permission, and excluding
13 the accompanying documents required by
14 Rule 21(a)(2)(C):
15 (1) a handwritten or typewritten paper must not
16 exceed 30 pages; and

- 17 (2) a paper produced using a computer must comply
18 with Rule 32(g) and not exceed:
19 (A) 7,500 words; or
20 (B) 780 lines of text printed in a monospaced
21 face.

Committee Note

The page limits previously employed in Rules 5, 21, 27, 35, and 40 have been largely overtaken by changes in technology. For papers produced using a computer, those page limits are now replaced by type-volume limits. The type-volume limits were derived from the current page limits using the assumption that one page is equivalent to 250 words or to 26 lines of text. Papers produced using a computer must include the certificate of compliance required by Rule 32(g); Form 6 in the Appendix of Forms suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the type-volume limits and the page limit, the calculation excludes the accompanying documents required by Rule 21(a)(2)(C) and any items listed in Rule 32(f).

1 **Rule 27. Motions**

2 * * * * *

3 **(d) Form of Papers; Page Limits; and Number of**
4 **Copies.**

5 * * * * *

6 (2) **Page Limits.** ~~A motion or a response to a~~
7 ~~motion must not exceed 20 pages, exclusive of~~
8 ~~the corporate disclosure statement and~~
9 ~~accompanying documents authorized by~~
10 ~~Rule 27(a)(2)(B), unless the court permits or~~
11 ~~directs otherwise. A reply to a response must not~~
12 ~~exceed 10 pages.~~ Except by the court's
13 permission, and excluding the accompanying
14 documents authorized by Rule 27(a)(2)(B):

20 FEDERAL RULES OF APPELLATE PROCEDURE

15 (A) a handwritten or typewritten motion or
16 response to a motion must not exceed 20
17 pages;

18 (B) a motion or response to a motion produced
19 using a computer must comply with
20 Rule 32(g) and not exceed:

21 (i) 5,000 words; or

22 (ii) 520 lines of text printed in a
23 monospaced face;

24 (C) a handwritten or typewritten reply to a
25 response must not exceed 10 pages; and

26 (D) a reply produced using a computer must
27 comply with Rule 32(g) and not exceed:

28 (i) 2,500 words; or

29 (ii) 260 lines of text printed in a
30 monospaced face.

* * * * *

Committee Note

The page limits previously employed in Rules 5, 21, 27, 35, and 40 have been largely overtaken by changes in technology. For papers produced using a computer, those page limits are now replaced by type-volume limits. The type-volume limits were derived from the current page limits using the assumption that one page is equivalent to 250 words or to 26 lines of text. Papers produced using a computer must include the certificate of compliance required by Rule 32(g); Form 6 in the Appendix of Forms suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the type-volume limits and the page limit, the calculation excludes the accompanying documents required by Rule 27(a)(2)(B) and any items listed in Rule 32(f).

1 **Rule 28.1. Cross-Appeals**

2 * * * * *

3 **(e) Length.**

4 (1) **Page Limitation.** Unless it complies with
5 Rule 28.1(e)(2)~~and (3)~~, the appellant's principal
6 brief must not exceed 30 pages; the appellee's
7 principal and response brief, 35 pages; the
8 appellant's response and reply brief, 30 pages;
9 and the appellee's reply brief, 15 pages.

10 **(2) Type-Volume Limitation.**

11 (A) The appellant's principal brief or the
12 appellant's response and reply brief is
13 acceptable if it complies with Rule 32(g)

14 and:

15 (i) ~~it contains no more than 14,000~~ 12,500

16 words; or

17 (ii) ~~it~~—uses a monospaced face and
18 contains no more than 1,300 lines of
19 text.

20 (B) The appellee’s principal and response brief
21 is acceptable if it complies with Rule 32(g)
22 and:

23 (i) ~~it~~—contains no more than ~~16,500~~14,700
24 words; or

25 (ii) ~~it~~—uses a monospaced face and
26 contains no more than 1,500 lines of
27 text.

28 (C) The appellee’s reply brief is acceptable if it
29 complies with Rule 32(g) and contains no
30 more than half of the type volume specified
31 in Rule 28.1(e)(2)(A).

32 ~~(3) **Certificate of Compliance.** A brief submitted~~
33 ~~under Rule 28.1(e)(2) must comply with~~
34 ~~Rule 32(a)(7)(C).~~

35 * * * * *

Committee Note

When Rule 28.1 was adopted in 2005, it modeled its type-volume limits on those set forth in Rule 32(a)(7) for briefs in cases that did not involve a cross-appeal. At that time, Rule 32(a)(7)(B) set word limits based on an estimate of 280 words per page. The basis for the estimate of 280 words per page is unknown, and the 1998 adoption of Rule 32(a)(7)(B) superseded at least one local circuit rule that used an estimate of 250 words per page based on a study of appellate briefs. The committee believes that the use of the estimate of 280 words per page inadvertently increased the length limits for briefs. Rules 28.1 and 32(a)(7)(B) are amended to reduce the word limits accordingly.

Rule 28.1(e) is amended to refer to new Rule 32(g) (which now contains the certificate-of-compliance provision formerly in Rule 32(a)(7)(C)).

1 **Rule 32. Form of Briefs, Appendices, and Other Papers**

2 **(a) Form of a Brief.**

3 * * * * *

4 **(7) Length.**

5 **(A) Page Limitation.** A principal brief may
6 not exceed 30 pages, or a reply brief 15
7 pages, unless it complies with
8 Rule 32(a)(7)(B) and (C).

9 **(B) Type-Volume Limitation.**

10 (i) A principal brief is acceptable if it
11 complies with Rule 32(g) and:

- 12 • ~~it~~—contains no more than
13 ~~14,000~~12,500 words; or
- 14 • ~~it~~—uses a monospaced face and
15 contains no more than 1,300 lines
16 of text.

17 (ii) A reply brief is acceptable if it
18 complies with Rule 32(g) and contains
19 no more than half of the type volume
20 specified in Rule 32(a)(7)(B)(i).

21 ~~(iii) Headings, footnotes, and quotations~~
22 ~~count toward the word and line~~
23 ~~limitations. The corporate disclosure~~
24 ~~statement, table of contents, table of~~
25 ~~citations, statement with respect to~~
26 ~~oral argument, any addendum~~
27 ~~containing statutes, rules or~~
28 ~~regulations, and any certificates of~~
29 ~~counsel do not count toward the~~
30 ~~limitation.~~

31 ~~(C) Certificate of compliance.~~

32 (i) ~~A brief submitted under~~
33 ~~Rules 28.1(e)(2) or 32(a)(7)(B) must~~
34 ~~include a certificate by the attorney, or~~
35 ~~an unrepresented party, that the brief~~
36 ~~complies with the type volume~~
37 ~~limitation. The person preparing the~~
38 ~~certificate may rely on the word or~~
39 ~~line count of the word processing~~
40 ~~system used to prepare the brief. The~~
41 ~~certificate must state either:~~
42 ~~• the number of words in the brief;~~
43 ~~or~~
44 ~~• the number of lines of~~
45 ~~monospaced type in the brief.~~
46 (ii) ~~Form 6 in the Appendix of Forms is a~~
47 ~~suggested form of a certificate of~~

48 ~~compliance. Use of Form 6 must be~~
49 ~~regarded as sufficient to meet the~~
50 ~~requirements of Rules 28.1(e)(3) and~~
51 ~~32(a)(7)(C)(i).~~

52 * * * * *

53 (f) Items Excluded from Length. In computing any
54 length limit, headings, footnotes, and quotations count
55 toward the limit but the following items do not:

- 56 ● the cover page
- 57 ● a corporate disclosure statement
- 58 ● a table of contents
- 59 ● a table of citations
- 60 ● a statement regarding oral argument
- 61 ● an addendum containing statutes, rules, or
62 regulations
- 63 ● certificates of counsel

- 64 • the signature block
- 65 • the proof of service
- 66 • any item specifically excluded by rule.

67 **(g) Certificate of Compliance.**

68 **(1) Briefs and Papers That Require a Certificate.**

69 A brief submitted under Rules 28.1(e)(2) or
70 32(a)(7)(B)—and a paper submitted under
71 Rules 5(c)(2), 21(d)(2), 27(d)(2)(B), 27(d)(2)(D),
72 35(b)(2)(B), or 40(b)(2)—must include a
73 certificate by the attorney, or an unrepresented
74 party, that the document complies with the type-
75 volume limitation. The person preparing the
76 certificate may rely on the word or line count of
77 the word-processing system used to prepare the
78 document. The certificate must state the number

79 of words—or the number of lines of monospaced
80 type—in the document.
81 (2) **Acceptable Form.** Form 6 in the Appendix of
82 Forms meets the requirements for a certificate of
83 compliance.

Committee Note

When Rule 32(a)(7)(B)'s type-volume limits for briefs were adopted in 1998, the word limits were based on an estimate of 280 words per page. The basis for the estimate of 280 words per page is unknown, and the 1998 rules superseded at least one local circuit rule that used an estimate of 250 words per page based on a study of appellate briefs. The committee believes that the 1998 amendments inadvertently increased the length limits for briefs. Rule 32(a)(7)(B) is amended to reduce the word limits accordingly.

A new subdivision (f) is added to set out a global list of items excluded from length computations, and the list of exclusions in former subdivision (a)(7)(B)(iii) is deleted. The certificate-of-compliance provision formerly in Rule 32(a)(7)(C) is relocated to a new Rule 32(g) and now applies to filings under all type-volume limits, including the new type-volume limits in Rules 5, 21, 27, 35, and 40. Conforming amendments are made to Form 6.

1 **Rule 35. En Banc Determination**

2 * * * * *

3 **(b) Petition for Hearing or Rehearing En Banc.** A
4 party may petition for a hearing or rehearing en banc.

5 * * * * *

6 (2) Except by the court's permission, ~~a petition for~~
7 ~~an en banc hearing or rehearing must not exceed~~
8 ~~15 pages, excluding material not counted under~~
9 ~~Rule 32.:~~

10 (A) a handwritten or typewritten petition for an
11 en banc hearing or rehearing must not
12 exceed 15 pages; and

13 (B) a petition for an en banc hearing or
14 rehearing produced using a computer must
15 comply with Rule 32(g) and not exceed:

16 (i) 3,750 words; or

17 (ii) 390 lines of text printed in a

18 monospaced face.

19 (3) For purposes of the ~~page-limits~~ in Rule 35(b)(2),
20 if a party files both a petition for panel rehearing
21 and a petition for rehearing en banc, they are
22 considered a single document even if they are
23 filed separately, unless separate filing is required
24 by local rule.

25 * * * * *

Committee Note

The page limits previously employed in Rules 5, 21, 27, 35, and 40 have been largely overtaken by changes in technology. For papers produced using a computer, those page limits are now replaced by type-volume limits. The type-volume limits were derived from the current page limits using the assumption that one page is equivalent to 250 words or to 26 lines of text. Papers produced using a computer must include the certificate of compliance required by Rule 32(g); Form 6 in the Appendix of Forms suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e.,

handwritten or typewritten papers). For both the type-volume limits and the page limit, the calculation excludes any items listed in Rule 32(f).

1 **Rule 40. Petition for Panel Rehearing**

2 * * * * *

3 **(b) Form of Petition; Length.** The petition must comply
4 in form with Rule 32. Copies must be served and
5 filed as Rule 31 prescribes. ~~Unless the court permits~~
6 ~~or a local rule provides otherwise, a petition for panel~~
7 ~~rehearing must not exceed 15 pages.~~Except by the
8 court's permission:

9 (1) a handwritten or typewritten petition for panel
10 rehearing must not exceed 15 pages; and

11 (2) a petition for panel rehearing produced using a
12 computer must comply with Rule 32(g) and not
13 exceed:

14 (A) 3,750 words; or

15 (B) 390 lines of text printed in a monospaced
16 face.

Committee Note

The page limits previously employed in Rules 5, 21, 27, 35, and 40 have been largely overtaken by changes in technology. For papers produced using a computer, those page limits are now replaced by type-volume limits. The type-volume limits were derived from the current page limits using the assumption that one page is equivalent to 250 words or to 26 lines of text. Papers produced using a computer must include the certificate of compliance required by Rule 32(g); Form 6 in the Appendix of Forms suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the type-volume limits and the page limit, the calculation excludes any items listed in Rule 32(f).

1 **Form 6. Certificate of Compliance with ~~Rule 32(a)~~**
2 **Type-Volume Limit**

3 Certificate of Compliance With Type-Volume Limitation,
4 Typeface Requirements, and Type Style Requirements

5 1. This ~~brief~~document complies with the type-
6 volume limitation of Fed. R. App. P. ~~32(a)(7)(B)~~[insert
7 Rule citation, e.g., 32(a)(7)(B)] because, excluding the
8 parts of the document exempted by Fed. R. App. P. 32(f)
9 [and [insert applicable Rule citation if any]]:

10 \ddot{y} this ~~brief~~document contains [*state the number of*]
11 words, ~~excluding the parts of the brief exempted~~
12 ~~by Fed. R. App. P. 32(a)(7)(B)(iii), or~~

13 \ddot{y} this ~~brief~~document uses a monospaced typeface
14 and contains [*state the number of*] lines of text;
15 ~~excluding the parts of the brief exempted by Fed.~~
16 ~~R. App. P. 32(a)(7)(B)(iii).~~

17 2. This ~~brief~~document complies with the
18 typeface requirements of Fed. R. App. P. 32(a)(5) and the
19 type style requirements of Fed. R. App. P. 32(a)(6)
20 because:

21 \ddot{y} this ~~brief~~document has been prepared in a
22 proportionally spaced typeface using [*state name*
23 *and version of word processing program*] in
24 [*state font size and name of type style*], or

25 **ÿ** this ~~brief~~document has been prepared in a
26 monospaced typeface using [*state name and*
27 *version of word processing program*] with [*state*
28 *number of characters per inch and name of type*
29 *style*].

30 (s) _____

31 Attorney for _____

32 Dated: _____

1 **Rule 29. Brief of an Amicus Curiae**

2 (a) **During Initial Consideration of a Case on the**
3 **Merits.**

4 **(1) Applicability.** *This Rule 29(a) governs amicus*
5 *filings during a court's initial consideration of a*
6 *case on the merits.*

7 **(2) When Permitted.** The United States or its
8 officer or agency or a state may file an amicus-
9 curiae brief without the consent of the parties or
10 leave of court. Any other amicus curiae may file
11 a brief only by leave of court or if the brief states
12 that all parties have consented to its filing.

13 ~~(b)~~ **(3) Motion for Leave to File.** The motion must be
14 accompanied by the proposed brief and state:

15 ~~(4)~~ **(A)** the movant's interest; and

32 with references to the pages of the brief
33 where they are cited;

34 ~~(4)~~ (D) a concise statement of the identity of the
35 amicus curiae, its interest in the case, and
36 the source of its authority to file;

37 ~~(5)~~ (E) unless the amicus curiae is one listed in the
38 first sentence of Rule 29(a)(2), a statement
39 that indicates whether:

40 ~~(A)~~ (i) a party's counsel authored the brief in
41 whole or in part;

42 ~~(B)~~ (ii) a party or a party's counsel
43 contributed money that was intended
44 to fund preparing or submitting the
45 brief; and

46 ~~(C)~~ (iii) a person—other than the amicus
47 curiae, its members, or its counsel—

48 contributed money that was intended
49 to fund preparing or submitting the
50 brief and, if so, identifies each such
51 person;

52 ~~(6)~~ **(F)** an argument, which may be preceded by a
53 summary and which need not include a
54 statement of the applicable standard of
55 review; and

56 ~~(7)~~ **(G)** a certificate of compliance, if required by
57 Rule 32(a)(7).

58 ~~(d)~~ **(5) Length.** Except by the court's permission, an
59 amicus brief may be no more than one-half the
60 maximum length authorized by these rules for a
61 party's principal brief. If the court grants a party
62 permission to file a longer brief, that extension
63 does not affect the length of an amicus brief.

- 64 ~~(e)~~ **(6) Time for Filing.** An amicus curiae must file its
65 brief, accompanied by a motion for filing when
66 necessary, no later than 7 days after the principal
67 brief of the party being supported is filed. An
68 amicus curiae that does not support either party
69 must file its brief no later than 7 days after the
70 appellant's or petitioner's principal brief is filed.
71 A court may grant leave for later filing,
72 specifying the time within which an opposing
73 party may answer.
- 74 ~~(f)~~ **(7) Reply Brief.** Except by the court's permission,
75 an amicus curiae may not file a reply brief.
- 76 ~~(g)~~ **(8) Oral Argument.** An amicus curiae may
77 participate in oral argument only with the court's
78 permission.

79 **(b) During Consideration of Whether to Grant**

80 **Rehearing.**

81 **(1) Applicability.** This Rule 29(b) governs amicus
82 filings during a court's consideration of whether
83 to grant panel rehearing or rehearing en banc,
84 unless a local rule or order in a case provides
85 otherwise.

86 **(2) When Permitted.** The United States or its
87 officer or agency or a state may file an amicus-
88 curiae brief without the consent of the parties or
89 leave of court. Any other amicus curiae may file
90 a brief only by leave of court.

91 **(3) Motion for Leave to File.** Rule 29(a)(3) applies
92 to a motion for leave.

93 (4) Contents, Form, and Length. Rule 29(a)(4)
94 applies to the amicus brief. The brief must
95 comply with Rule 32(g) and not exceed:
96 (i) 2,000 words; or
97 (ii) 208 lines of text printed in a monospaced
98 face.

99 (5) Time for Filing. An amicus curiae supporting
100 the petition for rehearing or supporting neither
101 party must file its brief, accompanied by a
102 motion for filing when necessary, no later than 3
103 days after the petition is filed. An amicus curiae
104 opposing the petition must file its brief,
105 accompanied by a motion for filing when
106 necessary, no later than the date set by the court
107 for the response.

Committee Note

Rule 29 is amended to address amicus filings in connection with requests for panel rehearing and rehearing en banc. Existing Rule 29 is renumbered Rule 29(a), and language is added to that subdivision (a) to state that its provisions apply to amicus filings during the court's initial consideration of a case on the merits. New subdivision (b) is added to address amicus filings in connection with a petition for panel rehearing or rehearing en banc. Subdivision (b) sets default rules that apply when a court does not provide otherwise by local rule or by order in a case. A court remains free to adopt different rules governing whether amicus filings are permitted in connection with petitions for rehearing, and governing the procedures when such filings are permitted.

1 **Rule 26. Computing and Extending Time**

2 * * * * *

3 (c) **Additional Time after Certain Kinds of Service.**

4 When a party may or must act within a specified time
5 after ~~service~~being served, 3 days are added after the
6 period would otherwise expire under Rule 26(a),
7 unless the paper is delivered on the date of service
8 stated in the proof of service. For purposes of this
9 Rule 26(c), a paper that is served electronically is ~~not~~
10 treated as delivered on the date of service stated in the
11 proof of service.

Committee Note

Rule 26(c) is amended to remove service by electronic means under Rule 25(c)(1)(D) from the modes of service that allow 3 added days to act after being served.

Rule 25(c) was amended in 2002 to provide for service by electronic means. Although electronic transmission seemed virtually instantaneous even then,

electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28- day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Rule 26(c) has also been amended to refer to instances when a party “may or must act . . . after being served” rather than to instances when a party “may or must act. . . after service.” If, in future, an Appellate Rule sets a deadline for a party to act after *that party itself effects service* on another person, this change in language will

clarify that Rule 26(c)'s three added days are not accorded to the party who effected service.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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EVIDENCE RULES

MEMORANDUM

TO: Honorable Jeffrey S. Sutton, Chair
Standing Committee on Rules of Practice and Procedure

FROM: Honorable Eugene R. Wedoff, Chair
Advisory Committee on Bankruptcy Rules

DATE: May 6, 2014 (revised July 25, 2014)

RE: Report of the Advisory Committee on Bankruptcy Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on April 22 and 23, 2014, in Austin, Texas, at the University of Texas School of Law.

* * * * *

Second, the Advisory Committee took action on new proposed rule and form amendments. The Committee requests publication for public comment of (1) the remaining group of modernized forms; (2) a new chapter 15 petition and related rule amendments; (3) an amendment to clarify the scope of Rule 3002.1; (4) an amendment to Rule 9006(f) that parallels amendments proposed by other Advisory Committees to eliminate the three-day rule following electronic service; and (5) a revised proof-of-claim attachment form for claims secured by home mortgages.

Part II of this report discusses the action items, grouped as follows:

* * * * *

(B1) amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, 9009, and Official Form 113, for which the Committee seeks approval for republication in August 2014; and

(B2) matters for which the Advisory Committee seeks approval for publication in August 2014—amendments to Rules 1010, 1011, 2002, 3002.1, 9006(f), and new Rule 1012; modernized Official Forms 106J, 106J-2, 201, 202, 204, 205, 206Sum, 206A/B, 206D, 206E/F, 206G, 206H, 207, 309A, 309B, 309C, 309D, 309E, 309F, 309G, 309H, 309I, 312, 313, 314, 315, 401, 410, 410A, 410S1, 410S2, 416A, 416B, 416D, 424, and instructions; and the abrogation of Official Forms 11A and 11B.

* * * * *

II. Action Items

* * * * *

B. Items for Publication in August 2014

* * * * *

B1. Rule and Form Amendments for Which Republication Is Sought

Action Item 6. Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009

As the Advisory Committee has previously reported, it has undertaken a multi-year project to create an official form for plans in chapter 13 cases. The chapter 13 plan form project is intended to eliminate the current anomaly of a major aspect of consumer bankruptcy practice not having a national form for presenting essential information to parties in interest. The Committee sees the adoption of a form for chapter 13 plans as bringing greater coherence to the presentation of information in chapter 13 cases and improving the procedures for preparing, reviewing, and confirming chapter 13 plans. The form (Official Form 113) was published for public comment in August 2013 along with related amendments to nine of the Bankruptcy Rules (Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009). After considering the public comments, the Advisory Committee has proposed a number of changes to the plan form and rule amendments. Accordingly, the Advisory Committee seeks republication of both the plan form and the package of accompanying rule amendments.

The Advisory Committee anticipated that the plan form and related rule amendments would generate significant interest, and, as expected, a large number of comments were submitted. The Advisory Committee received approximately 150 public comments related to the chapter 13 plan form project. In addition, two witnesses testified about the project at a public hearing in January 2014. The Advisory Committee's Chapter 13 Plan Form Working Group exhaustively reviewed and discussed the comments received. In all, the Working Group

convened for nine multi-hour conference calls to consider issues and concerns raised by the comments.

The current proposals for changes to the plan form are discussed below at Action Item 7. The principal comments and resulting changes to the rule amendments are discussed in this section.

Rule 2002

The published amendment to Rule 2002 would require giving 21 days' notice of the time to object to confirmation of a chapter 13 plan and 28 days' notice of the date of the confirmation hearing. Few comments were submitted on this amendment, and the Advisory Committee made no changes to the published rule. One comment suggested altering Rule 2002 to limit the required notice of pre-confirmation plan modifications. The Working Group, however, recommended against making changes to the basic notice provisions already included in the Bankruptcy Rules. A more comprehensive project on noticing may be undertaken by the Advisory Committee, and reconsideration of these issues would be more appropriate in that context.

Rule 3002

The published amendment to Rule 3002 included two significant changes to the rule. The first would alter Rule 3002(a) to state that the holder of a secured claim must file a proof of claim in order to have an allowed claim. The second would alter Rule 3002(c) principally to shorten the bar date—that is, the deadline by which a creditor must file a timely proof of claim—to 60 days after the petition is filed. The published amendment to Rule 3002(c) would provide an additional period of 60 days after the initial 60-day bar date. This additional 60-day period would allow holders of mortgage claims to file the supplemental documents required by Bankruptcy Rule 3001(c)(1) and (d). These changes drew a large number of comments.

Although in general the comments supported the thrust of the amended rule, they raised a number of issues. A comment from the NCBJ urged the removal of language stating that the failure of an entity to file a proof of claim does not void a creditor's lien. Apart from criticism of the phrasing of the statement, the comment objected that the provision strayed into an area of substantive law. Nevertheless, the Advisory Committee retained the language, which makes clear that the change in Rule 3002(a) to require secured creditors to file proofs of claim is not in tension with the general rule that a secured creditor's lien survives bankruptcy even if no proof of claim is filed. The language used in the published amendment is drawn directly (and intentionally) from § 506(d)(2) of the Bankruptcy Code. Several comments took issue with the bifurcated bar date for mortgage claims on the ground that a 120-day period gave unwarranted favored treatment to mortgage creditors. By contrast, a comment by a group of large mortgage servicers expressed the concern that a bifurcated bar date might give rise to new disputes about proofs of claim. The Advisory Committee is satisfied that the general 60-day bar date will usually be sufficient time for filing proofs of claim. The bifurcated bar date for mortgage claims reflects the concern that retrieval of required supporting documents for those claims may take longer than 60 days. This proposal was generated through discussions at a mini-conference held in Chicago in January 2013 in which representatives from a number of stakeholders in the chapter 13 process (including mortgage servicers) participated. The Advisory Committee

believes that the additional supporting documents to be filed by the end of the 120-day period will generate significant disputes in very few cases.

The Advisory Committee has approved two changes to the language of amended Rule 3002(c). One is a wording change to ensure consistency of terminology throughout the rule with respect to the starting point for calculating the bar date. The second clarifies that the listed exceptions to Rule 3002(c) apply to all cases—and not only involuntary chapter 7 cases— included in the subdivision.

Rule 3007

The Advisory Committee received a limited number of comments on the published amendment to Rule 3007, which governs objections to claims. Some of the comments offered stylistic suggestions that the Advisory Committee did not adopt. Others were more substantive and touched on service requirements. The Advisory Committee addressed service requirements for objections to claims at its fall 2013 meeting, when it approved amendments to Rule 3007(a) that were published for comment in 2011. Under amended Rule 3007(a), service of a claim objection would be made on claimants by mailing notice to the person listed on the proof of claim. Service on federal government and insured depository institution claimants, however, would also be made according to the applicable provisions of Rule 7004. The amended rule would also clarify that a hearing need not be held on every claim objection, so long as the claimant received notice and an opportunity for a hearing. Finally, the Committee voted at the fall 2013 meeting to delete the following language that was included in the proposed amendment to Rule 3007(a) published for comment last summer: “Except to the extent that the amount of a claim is determined under Rule 3012 in connection with plan confirmation in a chapter 12 or 13 case, a” This deletion was made because Rule 3012 does not address objections to claims, which is the subject of Rule 3007. Thus no exception to the latter rule is required.

Rule 3012

Amended Rule 3012 would govern the valuation of secured claims and priority claims. The published amendment drew support and opposition. A number of comments endorsed the key change in the rule—an express provision permitting a chapter 13 plan to include a request for the determination of allowed secured claim values. Other comments opposed this change to the rules on various grounds, including concerns about due process and concerns about the amended rule’s treatment of claims by governmental units. The Advisory Committee did not find the due process objections persuasive in light of the heightened service requirements the amended rules would impose when a request for valuation is made through a chapter 13 plan. The objection to the treatment of governmental units (their secured claims could not be valued in a plan) was also unpersuasive. The different treatment of these claims is driven by the statutory grant of a longer bar date for the claims of governmental units.

The Advisory Committee approved a change to the published Rule 3012(c) to clarify that 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. The Advisory Committee also approved amendments to Rule 3012(b) at the fall 2013 meeting. With the amendments, Rule 3012(b) would require service in the manner provided in Rule 7004 for a chapter 12 or 13 plan that requests determination of the amount of a secured claim, but would

leave to Rules 3007(a) and 9014(b) the method of service for claim objections and motions to determine the amount of a secured claim, respectively.

Rule 3015

The published amendments to Rule 3015 proposed several changes in the rule. Amended Rule 3015(c) would require that plans filed in chapter 13 cases must “be prepared as prescribed by the appropriate Official Form” and that provisions deviating from the Official Form are effective only if they are placed in the part of the form reserved for nonstandard provisions. Amended Rule 3015(f) would require that objections to plan confirmation be made at least seven days before the confirmation hearing. Amended Rule 3015(g) would make clear that the valuation of a secured claim in a confirmed plan is binding on the holder of the claim. And Amended Rule 3015(h) governs the service of a plan modified after confirmation.

Most of the comments critical of the amended rule objected to the provision in Rule 3015(c) requiring use of the Official Form for chapter 13 plans. The Advisory Committee’s consideration of the question whether to go forward with the chapter 13 plan form is discussed below in Action Item 7. Although the Advisory Committee has decided to continue pursuing a mandatory plan form, the published amended rule does not account for the possibility that a national plan form might not be adopted at a time when the rule is in effect. The Advisory Committee altered the language of Rule 3015(c) to account for this possibility.

The Advisory Committee made two other changes to the published version of Rule 3015. First, language has been added to Rule 3015(f) to require objections to be filed “at least seven days before the *date set for the* hearing on confirmation.” This change responds to comments pointing out that some districts, while setting confirmation hearing dates, ordinarily confirm plans without a hearing if there are no objections. Under the new language, a deadline for objections would be clear even if no hearing is held. Second, prompted by a comment from the IRS’s Office of General Counsel, the Advisory Committee has made a small change to Rule 3015(g). The language of amended Rule 3012(g) has been altered to provide that any “determination made *in accordance with Rule 3012*”—rather than “under Rule 3012”—will be binding.

Finally, the Advisory Committee has added a sentence to the Committee Note for Rule 3015 to make clear that service under Rule 3015(h) does not necessarily require heightened Rule 7004 service. Another change to the Committee Note regarding Rule 3015(h) was made to point out that the option to serve a summary of a proposed plan modification remains in the rule.

Rule 4003

The published amendment to Rule 4003(d) would permit a lien avoidance proceeding under § 522(f) of the Bankruptcy Code to be commenced through a chapter 13 plan as well as by motion. Several comments raised questions about an ambiguity in the amended rule as to the requirements for service of a plan seeking lien avoidance. The Advisory Committee added clarifying language stating that only the affected creditors need to receive the heightened service provided under Rule 7004.

Rule 5009

Several comments raised concerns about the published amendment to Rule 5009(d). That provision would permit a debtor to request “an order determining that the lien on” property of the estate “has been satisfied.” The final sentence of the amended rule provides further than an “order entered under this subdivision is effective as a release of the lien.” The comments questioned whether the terms “satisfied” and “release” were used appropriately, while other comments questioned whether a bankruptcy court has the authority to enter the order contemplated by the amended rule.

The Advisory Committee decided to alter the amendment. The phrase “an order declaring that the secured claim has been satisfied and the lien has been released under the terms of a confirmed plan” has been substituted in the first sentence of the rule. This language clarifies that the order would merely seek a declaration of the effects of a confirmed plan. Furthermore, the Advisory Committee decided to remove the final sentence as unnecessary.

Rule 7001

Few comments addressed the amendment to Rule 7001, which makes clear that an adversary proceeding is not needed for proceedings under Rule 3012 or 4003(d). Although a number of comments supported the amendment, the NCBJ expressed reservations. In particular, the NCBJ viewed Rule 3012 as addressing relief by motion, which would not be a “proceeding” that would need to be excluded from Rule 7001(2). The Advisory Committee understood the meaning of proceedings to be broader than adversary proceedings—in other words, something could be called a proceeding and not be categorized as an adversary proceeding. Accordingly, the additional clarity of amended Rule 7001 was deemed worthwhile.

The Advisory Committee decided to make a change to the wording of the amendment, however. The published amendment referred to “a proceeding to determine the validity, priority, or extent of a lien or other interest in property, not including a proceeding under Rule 3012 or Rule 4003(d).” The Advisory Committee concluded that it would be more accurate to substitute “but not a proceeding under Rule 3012 or Rule 4003(d)” at the end of the amended sentence.

Rule 9009

The published amendment to Rule 9009, which governs the use and alteration of Official Forms, would have effected significant changes to the current rule. In general, current Rule 9009 requires only substantial compliance with Official Forms and expressly provides that “[f]orms may be combined and their contents rearranged to permit economies in their use.” The published amendment to Rule 9009 is more restrictive and would require the use of Official Forms “without alteration, except as otherwise provided in these rules or in a particular Official Form.” This more restrictive version of Rule 9009 was prompted by the confluence of the Advisory Committee’s Forms Modernization Project and the publication of the chapter 13 plan form project. For each project, the Advisory Committee had devoted a great deal of attention to the format, sequencing, and presentation of information. In particular, the chapter 13 plan form requires nonstandard provisions to appear only in one portion of the form, and it would defeat the purpose of this feature if the form could be rearranged freely.

The amended rule drew approximately twenty comments. Many of the comments opposed the amended rule principally out of opposition to the chapter 13 plan form. Even comments that expressed support for the plan form, however, raised concerns about the amended rule. These comments read the amended rule as requiring nearly “pixel by pixel” reproduction of an Official Form, which would be impractical in many circumstances—particularly when forms are generated (as is increasingly common) by bankruptcy preparation software or by court electronic case filing systems. The Working Group and the Subcommittee on Forms, after reviewing the comments, agreed that the rule should permit a greater degree of flexibility in the use and reproduction of forms. The revised amendment would allow deviations from an Official Form if permitted by the national instructions for the form in addition to those deviations permitted by the Bankruptcy Rules or the form itself. It would also allow “minor changes not affecting wording or the order of presenting information” on a form. The five specified exceptions to the general rule in the published amendment have accordingly been pared down to three, and these are now given as examples of permissible “minor changes” to a form.

Action Item 7. Official Form 113

As noted above, the chapter 13 plan form generated a large number of public comments. Although few of the comments submitted early in the public comment period expressed outright opposition to adoption of any national plan form, later comments more commonly expressed general opposition to a national form. The expressions of opposition prompted the Working Group to question whether the Advisory Committee should consider abandoning the project or proposing a plan form merely as an option that might be adopted by individual bankruptcy courts or judges. After thorough deliberation, the Working Group concluded that the chapter 13 plan form and rule amendments should be recommended as currently structured and that it would defeat the goal of greater uniformity in chapter 13 practice if the form were turned into an optional one.

At the same time, the Working Group proposed a number of significant changes to the published form in response to the concerns raised by the comments. The Advisory Committee agreed with the Working Group’s recommended changes and seeks republication of the form in light of these changes.

Public Comments on the Plan Form

A significant number of negative comments criticized the plan form for diminishing the freedom of debtors to propose lawful chapter 13 plans and infringing upon the authority of bankruptcy judges to adjudicate and administer chapter 13 cases. This concern was—by far—the most commonly expressed criticism of the project. For example, a significant number of comments opposed the plan form because it presents the option (in a choice of checkboxes) for a debtor to make ongoing payments directly to secured creditors rather than through the “conduit” of a chapter 13 trustee. This point was made in concrete form by Chief Judge Robert Nugent (D. Kan.), on behalf of the bankruptcy judges of the district, who objected that the form would disrupt his court’s policy of requiring debtors to make ongoing mortgage payments through the chapter 13 trustee—a policy that Chief Judge Nugent believes has led to the successful administration of chapter 13 cases in the district. Many comments from similar “conduit” districts echoed Chief Judge Nugent’s concern. On the other hand, Judge S. Martin Teel (Bankr.

D.D.C.) expressed the inverse concern—that the form gave debtors the option of making ongoing payments to secured creditors through the trustee, even though his court is not a conduit district.

The Working Group decided that this concern rested on a misapprehension of the purpose and function of the chapter 13 plan form. The form is merely that—a form. It is not, in itself, a plan. Rather, it presents features typically found in chapter 13 plans in an ordered sequence. Nothing in the form diminishes the debtor’s ability to propose a plan of the debtor’s choosing. Similarly, the form does not mandate that a court accept the debtor’s choice of a particular option included on the form. The Working Group recommended the addition of an explicit warning to the form—as the first item of the form text—to remind debtors of this point, and the Advisory Committee accepted that recommendation. The proposed warning states: “This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district.”

Three other concerns were most commonly expressed by the public comments. First, a number of comments objected that the plan form would be too long and complex, which would mean increased attorney time (and cost) to complete the form, increased court time to review it, increased confusion and litigation, and a costly transition period from current practices. Second, some comments objected that the form should *not* seek to promote greater uniformity, because local variations are valuable—and perhaps inevitable—in chapter 13. Third, comments raised the related concern that the plan form was an unwise attempt by the Advisory Committee to regionalize or nationalize consumer bankruptcy practice. The Advisory Committee concluded that these concerns, while understandable, were misplaced.

First, the length of the form as published would not reflect the length of the form when used to file a typical chapter 13 plan. The various parts of the form, as explicitly stated on the document, need not be reproduced if the debtor does not include information in a particular section. For that reason, the Advisory Committee intends to include in a revised committee note a partially “collapsed” form showing the length of a typical plan in practice. The Working Group also received feedback from “real world” implementations of the form. Debra Miller, a chapter 13 trustee (N.D. Ind.), reported in a comment and in testimony at the public hearing that her district had adopted the draft plan form a year ago. Although Ms. Miller provided suggestions for clarifying and streamlining the form, she explained that it had not led to confusion or an increase in litigation.

Second, the Advisory Committee continues to see great value in encouraging more uniformity in chapter 13 procedures. A national plan form would benefit debtors, creditors, and courts by simplifying the preparation and review of chapter 13 plans and by allowing lower cost software programs and legal education programs for attorneys practicing in chapter 13 cases. Similarly, although the Advisory Committee cannot abridge, enlarge, or modify substantive rights in bankruptcy, more uniform procedures would have the beneficial effect of encouraging the clarification of open questions of law in chapter 13 cases. Because current chapter 13 procedures across the country are so fragmented, an appeal in one case arising in a particular

district has limited persuasive force elsewhere. Having a common plan form would thereby lead to greater clarity in the law governing chapter 13 cases.

Third, the Advisory Committee believes the concerns about regionalized or nationalized consumer bankruptcy practice are unwarranted. The Advisory Committee did not set out to restructure the consumer debtor bar. And it does not believe that any such restructuring would be the likely outcome of adopting a national plan form. Other areas of consumer debtor practice in which forms are more uniform (most significantly, in chapter 7) have not been transformed in the manner feared by these comments.

Changes to the Published Form

In addition to the changes discussed above, the Advisory Committee has altered a number of parts of the plan form. Three changes are particularly worthy of note. First, the revised plan form provides for greater flexibility as to the manner in which a debtor funds a chapter 13 plan, including the provision of payments by multiple “steps” of varying durations and the provision of more options concerning the commitment of a debtor’s tax refund. Second, the Advisory Committee altered Part 7 of the plan form, which sets forth the order of distribution of payments to creditors. As published, Part 7 listed payments of the trustee’s fee, followed by payments to secured creditors, with the remaining spaces left blank. Part 7 generated a heavy volume of comments, with a split between those seeking a more detailed order of distributions, those seeking no order of distributions at all (in favor of having the trustee determine the order), and those seeking a completely blank order of distributions. The Advisory Committee decided to leave this part blank with the exception of the provision of payment of the trustee’s fee. The revised Committee Note, however, now states that the debtor may choose to leave the order of distribution to the trustee’s direction. Third, the Advisory Committee altered the signature box (Part 10). As published, this part of the plan form required only debtors’ attorneys and pro se debtors to sign the form. On further reflection, the Advisory Committee has decided to make signatures by represented debtors optional. A number of comments noted that debtors’ attorneys might want their clients to sign the plan, both to increase the evidentiary value of the plan in the proceedings and also to verify that the debtor has reviewed the plan’s contents.

Republication of the Plan Form and Rule Amendments as a Package

The Advisory Committee wishes to republish both the plan form and rule amendments, with many members supporting the adoption of the rule amendments only in conjunction with a national plan form. The Committee recommends soliciting public comment on whether the form and rules should be considered as an integrated package. Two members of the Committee dissented from this aspect of the republication request.

B2. Rule and Form Amendments for Which Publication Is Sought

Action Item 8. Rules 1010, 1011, 1012, 2002

The Advisory Committee will seek permission to publish amendments to the Bankruptcy Rules in order to improve procedures for international bankruptcy cases. Under chapter 15 of the Bankruptcy Code, a representative of a foreign debtor may petition a United States court to recognize a foreign proceeding in a cross-border insolvency case. If the recognition petition is

granted, certain provisions of the Bankruptcy Code will apply to assist the foreign representative in administering the debtor's assets or in pursuing other relief. Shortly after chapter 15 was added to the Bankruptcy Code in 2005, the Bankruptcy Rules were amended to insert new provisions governing cross-border cases. Among the new provisions were changes to Rules 1010 and 1011, which previously governed only involuntary bankruptcy cases, and Rule 2002, which governs notice. The proposed amendments to the Bankruptcy Rules would make three changes: (i) remove the chapter 15-related provisions from Rules 1010 and 1011; (ii) create a new Rule 1012 to govern responses to a chapter 15 petition; and (iii) augment Rule 2002 to clarify the procedures for giving notice in cross-border proceedings.

The explanation for these amendments requires a brief background on the chapter 15 process. Chapter 15 defines two categories of foreign proceeding. Section 1502(4) defines a "foreign main proceeding" as a foreign proceeding pending in the country where the debtor has the "center of its main interests." Section 1502(5), on the other hand, defines a "foreign nonmain proceeding," as a foreign proceeding (other than a foreign main proceeding) pending in a country "where the debtor has an establishment." Section 1517(c) requires that a petition for recognition be decided "at the earliest possible time" after notice and a hearing. Section 1520(a) provides that upon recognition of a foreign main proceeding, the automatic stay under § 362 applies to the debtor and the property of the debtor in the United States. With a foreign nonmain proceeding, however, the foreign representative must apply for a grant of "any appropriate relief," including a stay of actions against the debtor and the property of the debtor. § 1521(a).

The Advisory Committee's Subcommittee on Technology and Cross-Border Insolvency noted a number of oddities in the Bankruptcy Rules' treatment of the two types of foreign proceedings. Rule 1010 requires the clerk to issue a summons for service when a petition for the recognition of a foreign *nonmain* proceeding is filed—but not when a petition for the recognition of a foreign main proceeding is filed. Yet Rule 1011, which governs responses to a petition for recognition of a foreign proceeding, appears to contemplate that service of the summons will be made in all cases. Rule 1011(b) provides that "[d]efenses 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.*" (emphasis added). Thus, under Rule 1011(b), service of the summons triggers the time period for responding to a petition for recognition of a foreign main or nonmain proceeding, yet no summons issues with a foreign main proceeding under Rule 1010. Rule 2002(q) further complicates the picture. That rule requires service of at least 21 days' notice of the hearing on a recognition petition. But the rule does not explicitly address when the court should set the hearing. This raises the concern that if the court must wait until the expiration of the response times under Civil Rule 12 (generally 21 days), as possibly indicated by Rule 1011(b), then an unnecessary delay may occur between the petition's filing and the recognition hearing date. That delay would be contrary to the Code's requirement of prompt adjudication of a petition for recognition. Rule 2002(q) also contains another gap. It does not address how courts should treat requests for provisional relief—a commonplace part of chapter 15 practice—in advance of a recognition hearing.

The Subcommittee concluded that the Bankruptcy Rules contain procedures that are ill suited for chapter 15 cases. The amendments would drop the requirement of issuing a summons after the filing of a petition for recognition—a requirement that appears to be honored in the

breach in some courts entertaining chapter 15 cases. Procedures for objections and other responses to a petition would be governed by a new Rule 1012. Rule 2002(q) would be amended in three respects. First, the rule would expressly require a prompt hearing on a petition for recognition. Second, the rule would indicate the contents of the hearing notice. Third, the rule would permit the court to combine a hearing on provisional relief with the recognition hearing in a manner similar to that contemplated by Rule 65 of the Civil Rules (made applicable in bankruptcy under Rules 1018 and 7065). These changes are intended to ensure that the Bankruptcy Rules set forth more accurate and effective procedures for the adjudication of chapter 15 cases.

Acting on the Subcommittee's recommendation, the Advisory Committee voted to seek permission to publish these amendments to the Bankruptcy Rules. The amendments would be published together with a new form for chapter 15 petitions (Official Form 401), discussed separately in Action Item 11.

Action Item 9. Rule 3002.1 applies in chapter 13 cases and requires creditors whose claims are secured by a security interest in the debtor's principal residence to provide the debtor and trustee certain information about the mortgage while the bankruptcy case is pending. It requires the creditor to give notice of any changes in the periodic payment amount and notice of any fees, expenses, or charges that are incurred after the bankruptcy case is filed. The proposed amendments would clarify when the rule applies and when its requirements cease.

Since the rule went into effect in 2011, a conflict in the case law has arisen over whether the rule applies to a case in which the debtor is not curing a prepetition mortgage default under the plan but is maintaining mortgage payments while the case is pending. The source of the confusion is the rule's reference to "claims . . . provided for under § 1322(b)(5) of the Code in the debtor's plan." That statutory provision authorizes a chapter 13 plan to "provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending." Some courts have read that provision as not applying unless the debtor has defaulted on the mortgage prior to commencement of the chapter 13 case. As a result, they have held that the reporting obligations under Rule 3002.1 do not apply if no default is being cured. *See, e.g., In re Weigel*, 485 B.R. 327, 328 (Bankr. E.D. Va. 2012); *In re Wallett*, 2012 WL 4062657 at * 2 (Bankr. D. Vt. 2012). Other courts have interpreted § 1322(b)(5) as authorizing maintenance of mortgage payments even when there is no need to cure a default. Based on that view, they have applied Rule 3002.1 to cases with a maintenance-only plan. *See, e.g., In re Tollios*, 491 B.R. 886 (Bankr. N.D. Ill. 2013); *In re Cloud*, 2013 WL 441543 at * 2 (Bankr. S.D. Ga. 2013).

The Advisory Committee concluded unanimously that a creditor's obligations under Rule 3002.1 to keep a debtor informed about the status of a mortgage should apply whenever a chapter 13 plan provides for continuing payments on the mortgage while the bankruptcy case is pending. The goal of Rule 3002.1 is to allow a debtor to be current on a home mortgage at the end of a successful chapter 13 case. Whether or not there was a prepetition default, proper payment of the mortgage during the case requires accurate information about any changes in payment amounts and the assessment of any fees and charges. The Committee therefore acted positively on the suggestion of Bankruptcy Judge Carol Doyle (N.D. Ill.) (Suggestion 13-BK-E) that the rule be amended to clarify that it applies to any chapter 13 plan that provides for the

maintenance of home mortgage payments. The proposed amendment would remove the reference to § 1322(b)(5) in subdivision (a) and add in its place the requirement that the plan “provides that either the trustee or the debtor will make contractual installment payments.”

In proposing that amendment, the Advisory Committee is also attempting to resolve another case conflict—whether Rule 3002.1 applies only when the chapter 13 trustee makes the ongoing mortgage payments (sometimes incorrectly referred to as “payments under the plan”) or whether the rule also applies when the debtor makes the mortgage payments directly (sometimes incorrectly referred to as “payments outside the plan”). The Committee’s intent in promulgating the rule was for the rule to apply in either situation, and the Committee Note so stated. Because a few courts have limited the rule’s applicability to trustee-payment cases, however, the Committee voted unanimously to clarify in the proposed amendment that the rule applies to plans in which either the trustee or the debtor will maintain mortgage payments.

Finally, the Advisory Committee voted to propose an amendment of Rule 3002.1(a) to address an issue on which the rule is currently silent—when do the creditor’s obligations under the rule cease? If during a chapter 13 case a creditor obtains relief from the automatic stay in order to foreclose on the home mortgage, there would generally be no reason to continue to inform the debtor about changes in payment amounts or assessment of fees, since payment will usually be discontinued. Based on the current rule’s silence, however, some courts have concluded that there is no basis for relieving the creditor of its obligations under the rule in that situation. *See, e.g., In re Kraska*, 2012 WL 1267993 (Bankr. N.D. Ohio 2012); *In re Full*, 2012 Bankr. LEXIS 4704 (Bankr. D.S.C. 2012).

The Committee voted, with 3 dissents, to propose the addition of the following sentence at the end of Rule 3002.1(a): “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 securing the claim.” Members who opposed the amendment noted that in some cases debtors have a continuing need for the mortgage information because they will seek to cure their postpetition default or obtain a mortgage modification. A paragraph was added to the Committee Note to encourage courts in appropriate situations to be open to requests to continue the reporting requirements after stay relief is granted.

Action Item 10. Rule 9006(f) is proposed to be amended in response to a recommendation of the Standing Committee’s CM/ECF Subcommittee. The amendment would eliminate the three-day extension to time periods when service is effected electronically. It would therefore parallel amendments to Civil Rule 6(d), which was presented to the Standing Committee at its January meeting, and Appellate Rule 26(c) and Criminal Rule 45(c), which are being proposed for publication at this meeting.

The Advisory Committee agreed with the CM/ECF Subcommittee’s rationale for eliminating the three-day rule in the case of electronic service. Now that electronic service is widely used, reliable, and generally instantaneous, there is no reason to extend the time in which the party served must take action following service. Elimination of the three additional days when electronic service is used also facilitates day-of-the-week counting, which the Time Computation Project brought to the rules.

The Advisory Committee discussed whether the amendment should go beyond electronic service and either eliminate the three-day rule altogether or eliminate it for some additional methods of service. In the end the Committee voted unanimously to propose an amendment that is limited to electronic service. Members concluded that it is important to have uniformity in how time is computed under the various federal rules, and the Committee therefore favored proposing an amendment that is consistent with the CM/ECF Subcommittee's recommendation.

Action Item 11. Official Form 401

The Advisory Committee will seek publication of an Official Form for chapter 15 petitions. The creation of the form arose from the ongoing work of the Forms Modernization Project. While drafting a new voluntary petition form for non-individual debtors, the FMP received comments suggesting that a separate chapter 15 petition form should be drafted. In particular, the U.S. Trustee Program recommended the creation of a separate form to allow the deletion of information on the voluntary petition form that is relevant only to chapter 15 cases.

A draft chapter 15 petition form, designated as Official Form 401, was presented to the Advisory Committee for preliminary discussion at its fall 2013 meeting. The Subcommittee on Technology and Cross-Border Insolvency then sought further input from a group of outside reviewers with expertise in chapter 15 cases. These reviewers—from judicial, academic, and practice backgrounds—noted a number of suggested changes to the draft form. On the whole, the reviewers' comments are positive and helpful, and the Subcommittee found a number of their suggested changes to be improvements that were incorporated into a revised draft. The Advisory Committee accepted the Subcommittee's recommendation and voted to seek publication of the form.

As described in Action Item 8, the Advisory Committee anticipates that the new petition form will be published together with the chapter 15-related amendments to the Bankruptcy Rules.

Action Item 12. Official Form 410A (currently Form 10A) is the Mortgage Proof of Claim Attachment. The form is required to be filed in an individual debtor case with the proof of claim of a creditor that asserts a security interest in the debtor's principal residence. The form currently requires a statement of the principal and interest due as of the petition date; a statement of prepetition fees, expenses, and charges that remain unpaid; and a statement of the amount necessary to cure any default as of the petition date. The Advisory Committee seeks publication for public comment of a revised form that would replace the existing form with one that requires a mortgage claimant to provide a loan payment history and other information about the mortgage claim, including calculations of the claim and the arrearage amounts.

When the Advisory Committee was considering the promulgation of Official Form 10A, it heard from some commenters that a full or partial mortgage account history should be required. The Committee concluded then that a more summary form would better convey the necessary information, but it determined to reconsider the issue after a period of experience with the new form.

The Committee held a mini-conference of interested entities in September 2012. There was general agreement among participants on the following suggestions for revision of the attachment form:

- A detailed payment history should be attached to the proof of claim. The payment history should be in a form that can be automated.
- Disclosure requirements should be uniform nationwide; local variations should be prohibited.
- The proof of claim attachment should include the amount of the regular mortgage payment applicable as of the petition date.
- The proof of claim attachment should show the calculation of the total claim as of the petition date.

The Advisory Committee later created a Mortgage Forms Working Group to follow up on suggestions that emerged at the mini-conference. The Group consists of several members of the Committee, an invited bankruptcy judge, a chapter 13 trustee, and an attorney for a mortgage lender and servicer. The Working Group drafted a new attachment form and presented it to the Advisory Committee at the spring meeting, where it was unanimously approved for publication.

The new form would require a home mortgage claimant to provide a history of the loan account starting with the “First Date of Default.” As explained in the Committee Note and Instructions, that date 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. The loan history would show when payments were due; when the debtor made payments and how those payments were applied; when fees and charges were incurred; and what the balances were for the various components of the loan after amounts were received or fees and charges were incurred. Advocates of requiring a loan history have stated that disclosure of this information would enable a debtor to see the basis for a mortgage claim and the arrearage amount, thereby facilitating resolution of disputes about mortgage amounts in some cases and providing a basis for objecting to claim amounts in others.

From the mortgage claimant’s perspective, the proposed attachment form has the advantage of being in a format that can be automated, unlike the existing form that must be completed by hand. Outreach to various lenders indicated that automation of the form would be feasible for them. The pending amendments to Rule 9009 would require the uniform implementation of the new form in all districts, thereby allowing creditors to develop universally applicable software for form completion.

In addition to requiring a loan history, the proposed Form 410A would provide spaces for calculating the total amount of the debt and any prepetition arrearage. It also calls for the claimant to state the amount of the monthly mortgage payment as of the petition date.

The Advisory Committee requests that the proposed form be published this summer, along with its Instructions and a sample form that shows how the form would be completed in an illustrative case.

Action Item 13. The nearly final installment of the Forms Modernization Project.

The restyled forms for which the Advisory Committee is now seeking publication constitute the last major group of Official Forms that will be revised by the Forms Modernization Project (“FMP”).¹ This group of forms consists primarily of case opening forms for non-individual cases, chapter 11-related forms, the proof of claim form and supplements, and orders and court notices for use in all types of cases. Also to be published are two revised individual debtor forms and the announcement of the proposed abrogation of two Official Forms.

Specifically, the modernized forms for which publication is sought are the following (in addition to the three forms that were separately discussed in Action Items 7, 11, and 12):

11A	General Power of Attorney (Abrogated)
11B	Special Power of Attorney (Abrogated)
106J	Schedule J: Your Expenses
106J-2	Schedule J-2: Expenses for Separate Household of Debtor 2
201	Voluntary Petition for Non-Individuals Filing for Bankruptcy
202	Declaration Under Penalty of Perjury for Non-Individual Debtors
204	Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders
205	Involuntary Petition Against a Non-Individual
206Sum	Summary of Assets and Liabilities for Non-Individuals
206A/B	Schedule A/B: Assets—Real and Personal Property
206D	Schedule D: Creditors Who Have Claims Secured by Property
206E/F	Schedule E/F: Creditors Who Have Unsecured Claims
206G	Schedule G: Executory Contracts and Unexpired Leases
206H	Schedule H: Codebtors
207	Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy
309A	Notice of Chapter 7 Bankruptcy Case—No Proof of Claim Deadline (For Individuals or Joint Debtors)
309B	Notice of Chapter 7 Bankruptcy Case—Proof of Claim Deadline Set (For Individuals or Joint Debtors)
309C	Notice of Chapter 7 Bankruptcy Case—No Proof of Claim Deadline (For Corporations or Partnerships)
309D	Notice of Chapter 7 Bankruptcy Case—Proof of Claim Deadline Set (For Corporations or Partnerships)
309E	Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors)
309F	Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships)
309G	Notice of Chapter 12 Bankruptcy Case (For Individuals or Joint Debtors)

¹ The forms that remain to be restyled are current Official Forms 25A (Plan of Reorganization in Small Business Case Under Chapter 11), 25B (Disclosure Statement in Small Business Case Under Chapter 11), 25C (Small Business Monthly Operating Report), and 26 (Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor’s Estate Holds a Substantial or Continuing Interest).

309H	Notice of Chapter 12 Bankruptcy Case (For Corporations or Partnerships)
309I	Notice of Chapter 13 Bankruptcy Case
312	Order and Notice for Hearing on Disclosure Statement
313	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances and Rejections of Plan, Combined With Notice Thereof
314	Class [] Ballot for Accepting or Rejecting Plan of Reorganization
315	Order Confirming Plan
410	Proof of Claim
410S1	Notice of Mortgage Payment Change
410S2	Notice of Postpetition Mortgage Fees, Expenses, and Charges
416A	Caption (Full)
416B	Caption (Short Title)
416D	Caption for Use in Adversary Proceeding
424	Certification to Court of Appeals by All Parties

An instruction booklet for non-individuals is also included for comment.

Before the spring 2012 meeting of the Advisory Committee, the FMP adopted the following guidelines for drafting the non-individual debtor forms:

- Eliminate requests for information that pertain only to individuals.
- To the extent possible, parallel how businesses commonly keep their financial records.
- Include information identifying where and how the requested information departs from information maintained according to standard accounting practices.
- Provide better instructions about how to value assets listed in the schedules, and provide a valuation methodology that will allow people who commonly sign schedules to respond without needing expert asset valuations.
- Revise the secured debt schedule to clarify when debts are cross-collateralized and the relative priority of secured creditors.
- Require responsive information to be set out in the forms themselves and not simply included as attachments.
- Use a more open-ended response format, as compared to the draft individual debtor forms.
- Keep interdistrict variations to a minimum, particularly with respect to the mailing matrix.

The drafting of the modernized non-individual forms was done using an iterative approach. A drafting group of the FMP prepared drafts of the non-individual forms. Then, with assistance of Beth Wiggins and Molly Johnson from the Federal Judicial Center, research was

done on ways in which the non-individual forms could be improved. They obtained input from the groups of professionals who reviewed the individual forms, as well as groups of chapter 11 attorneys, the National Association of Bankruptcy Trustees, representatives of the U.S. Trustee Program, a Western District of Michigan group assembled by Bankruptcy Judge Jeffrey Hughes, an Eastern District of California group assembled by Bankruptcy Judge Christopher Klein, and form software vendors. The Advisory Committee also had an opportunity to review the forms and make suggestions at its fall 2013 meeting. After additional revisions were made, the forms were presented to the Advisory Committee at the spring meeting. The Committee unanimously approved them for publication.

The proposed revisions to this group of forms consist primarily of creating separate case-opening forms for non-individual cases, renumbering all of the forms, and making changes to style and format. In addition, the Advisory Committee is proposing the changes noted below to a few of the forms in this group.

Official Forms 11A and 11B. The Committee is proposing the abrogation of these Official Forms and their replacement with Director's Forms. Parties routinely modify these power of attorney forms to conform to state law, the needs of the case, or local practice. There is no reason that the exact language of these forms needs to be used. Because the proposed amendment to Rule 9009 would restrict alteration of Official Forms, except as provided in the rules, form instructions, or in a particular Official Form, the Committee determined that the subject of these forms would be better handled by Director's Forms. The latter forms may be altered as needed, and their use is not mandatory unless required by a local rule.

Official Forms 106J and 106J-2. These forms are part of the debtors' schedules in a joint case. Official Form 106J-2 (Schedule J-2: Expenses for Separate Household of Debtor 2) is new. It would be used only in a joint case in which the spouses maintain separate households. Debtor 2's monthly expenses would be itemized and totaled on Form 106J-2, and then that total would be listed on line 22b of Form 106J (Schedule J: Your Expenses) to be used in the calculation of the debtors' total monthly expenses. Form 106J would be amended to add line 22b and to include references to Official Form 106J-2 at lines 1 and 22b.

Combination of Forms. In four instances, the Advisory Committee has combined two existing forms into one. Official Form 206A/B (Schedule A/B: Assets—Real and Personal Property) is a combination of existing Forms 6A and 6B for use in non-individual cases. Similarly, Official Form 206E/F (Schedule E/F: Creditors Who Have Unsecured Claims) is a combination of existing Forms 6E and 6F for use in non-individual cases. Two sets of notices of a bankruptcy case filing were also merged. Official Form 309E (Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors)) combines existing Forms 9E and 9E(Alt), and Official Form 309F (Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships)) does the same for existing Forms 9F and 9F(Alt).

Publication of this last group of modernized forms this summer means that they could go into effect on December 1, 2015, if no further publication is required and the Judicial Conference approves them. The timing of the implementation of the next generation of the CM/ECF system, however, may require a delayed implementation of the modernized forms to ensure that it is

technologically feasible to capture the data reported on them. For that reason the Advisory Committee suggests that the effective date of these forms and the ones discussed under Action Item 4 be December 1, 2015, or as soon thereafter as the available technology allows.

* * * * *

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE***

1 **Rule 1010. Service of Involuntary Petition and**
2 **Summons; ~~Petition for Recognition of a~~**
3 **~~Foreign Nonmain Proceeding~~**

4 (a) SERVICE OF INVOLUNTARY PETITION
5 AND SUMMONS; ~~SERVICE OF PETITION FOR~~
6 ~~RECOGNITION OF FOREIGN NONMAIN~~
7 ~~PROCEEDING.~~ On the filing of an involuntary petition ~~or~~
8 ~~a petition for recognition of a foreign nonmain proceeding,~~
9 the clerk shall forthwith issue a summons for service.
10 When an involuntary petition is filed, service shall be made
11 on the debtor. ~~When a petition for recognition of a foreign~~
12 ~~nonmain proceeding is filed, service shall be made on the~~
13 ~~debtor, any entity against whom provisional relief is sought~~
14 ~~under § 1519 of the Code, and on any other party as the~~

* New material is underlined in red; matter to be omitted is lined through.

2 FEDERAL RULES OF BANKRUPTCY PROCEDURE

15 ~~court may direct.~~—The summons shall be served with a
16 copy of the petition in the manner provided for service of a
17 summons and complaint by Rule 7004(a) or (b). If service
18 cannot be so made, the court may order that the summons
19 and petition be served by mailing copies to the party's last
20 known address, and by at least one publication in a manner
21 and form directed by the court. The summons and petition
22 may be served on the party anywhere. Rule 7004(e) and
23 Rule 4(*l*) F.R.Civ.P. apply when service is made or
24 attempted under this rule.

25 * * * * *

Committee Note

Subdivision (a) of this rule is amended to remove provisions regarding the issuance of a summons for service in certain chapter 15 proceedings. The requirements for notice and service in chapter 15 proceedings are found in Rule 2002(q).

1 **Rule 1011. Responsive Pleading or Motion in**
2 **Involuntary and Cross-Border Cases**

3 (a) WHO MAY CONTEST PETITION. The debtor
4 named in an involuntary petition, ~~or a party in interest to a~~
5 ~~petition for recognition of a foreign proceeding,~~ may
6 contest the petition. In the case of a petition against a
7 partnership under Rule 1004, a nonpetitioning general
8 partner, or a person who is alleged to be a general partner
9 but denies the allegation, may contest the petition.

10 * * * * *

11 (f) CORPORATE OWNERSHIP STATEMENT. If
12 the entity responding to the involuntary petition ~~or the~~
13 ~~petition for recognition of a foreign proceeding~~ is a
14 corporation, the entity shall file with its first appearance,
15 pleading, motion, response, or other request addressed to
16 the court a corporate ownership statement containing the
17 information described in Rule 7007.1.

4 FEDERAL RULES OF BANKRUPTCY PROCEDURE

Committee Note

This rule is amended to remove provisions regarding chapter 15 proceedings. The requirements for responses to a petition for recognition of a foreign proceeding are found in Rule 1012.

1 **Rule 1012. Responsive Pleading in Cross-Border Cases**

2 (a) WHO MAY CONTEST PETITION. The debtor
3 or any party in interest may contest a petition for
4 recognition of a foreign proceeding.

5 (b) OBJECTIONS AND RESPONSES; WHEN
6 PRESENTED. Objections and other responses to the
7 petition shall be presented no later than seven days before
8 the date set for the hearing on the petition, unless the court
9 prescribes some other time or manner for responses.

10 (c) CORPORATE OWNERSHIP STATEMENT. If
11 the entity responding to the petition is a corporation, then
12 the entity shall file a corporate ownership statement
13 containing the information described in Rule 7007.1 with
14 its first appearance, pleading, motion, response, or other
15 request addressed to the court.

6 FEDERAL RULES OF BANKRUPTCY PROCEDURE

Committee Note

This rule is added to govern responses to petitions for recognition in cross-border cases. It incorporates provisions formerly found in Rule 1011. Subdivision (a) provides that the debtor or a party in interest may contest the petition. Subdivision (b) provides for presentation of responses no later than 7 days before the hearing on the petition, unless the court directs otherwise. Subdivision (c) governs the filing of corporate ownership statements by entities responding to the petition.

1 **Rule 2002. Notices to Creditors, Equity Security**
2 **Holders, Administrators in Foreign**
3 **Proceedings, Persons Against Whom**
4 **Provisional Relief is Sought in Ancillary**
5 **and Other Cross-Border Cases, United**
6 **States, and United States Trustee**

7 * * * * *

8 (q) NOTICE OF PETITION FOR RECOGNITION
9 OF FOREIGN PROCEEDING AND OF COURT'S
10 INTENTION TO COMMUNICATE WITH FOREIGN
11 COURTS AND FOREIGN REPRESENTATIVES.

12 (1) *Notice of Petition for Recognition.* After
13 the filing of a petition for recognition of a foreign
14 proceeding, the court shall promptly schedule and
15 hold a hearing on the petition. The clerk, or some
16 other person as the court may direct, shall forthwith
17 give the debtor, all persons or bodies authorized to
18 administer foreign proceedings of the debtor, all
19 entities against whom provisional relief is being

8 FEDERAL RULES OF BANKRUPTCY PROCEDURE

20 sought under §1519 of the Code, all parties to
21 litigation pending in the United States in which the
22 debtor is a party at the time of the filing of the
23 petition, and such other entities as the court may
24 direct, at least 21 days' notice by mail of the hearing
25 ~~on the petition for recognition of a foreign proceeding.~~

26 The notice shall state whether the petition seeks
27 recognition as a foreign main proceeding or foreign
28 nonmain proceeding and shall include the petition and
29 any other document the court may require. If the
30 court consolidates the hearing on the petition with the
31 hearing on a request for provisional relief, the court
32 may set a shorter notice period, with notice to the
33 entities listed in this subdivision.

34 * * * * *

Committee Note

Subdivision (q) is amended to clarify the procedures for giving notice in cross-border proceedings. The amended rule provides, in keeping with Code § 1517(c), for the court to schedule a hearing to be held promptly on the petition for recognition of a foreign proceeding. The amended rule contemplates that a hearing on a request for provisional relief may sometimes overlap substantially with the merits of the petition for recognition. In that case, the court may choose to consolidate the hearing on the request for provisional relief with the hearing on the petition for recognition, see Rules 1018 and 7065, and accordingly shorten the usual 21-day notice period.

Fill in this information to identify the case:

United States Bankruptcy Court for the:

_____ District of _____
(State)

Case number (if known): _____ Chapter 15

Check if this is an amended filing

Official Form 401

Chapter 15 Petition for Recognition of a Foreign Proceeding

12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write debtor's name and case number (if known).

1. Debtor's name _____

2. Debtor's unique identifier

For non-individual debtors:

Federal Employer Identification Number (EIN) ____ - ____ - ____ - ____

Other _____. Describe identifier _____.

For individual debtors:

Social Security number: xxx - xx- ____ - ____ - ____

Individual Taxpayer Identification number (ITIN): 9 xx - xx - ____ - ____ - ____

Other _____. Describe identifier _____.

3. Name of foreign representative(s) _____

4. Foreign proceeding in which appointment of the foreign representative(s) occurred _____

5. Nature of the foreign proceeding

Check one:

Foreign main proceeding

Foreign nonmain proceeding

Foreign main proceeding, or in the alternative foreign nonmain proceeding

6. Evidence of the foreign proceeding

A certified copy, translated into English, of the decision commencing the foreign proceeding and appointing the foreign representative is attached.

A certificate, translated into English, from the foreign court, affirming the existence of the foreign proceeding and of the appointment of the foreign representative, is attached.

Other evidence of the existence of the foreign proceeding and of the appointment of the foreign representative is described below, and relevant documentation, translated into English, is attached.

7. Is this the only foreign proceeding with respect to the debtor known to the foreign representative(s)?

No. (Attach a statement identifying each country in which a foreign proceeding by, regarding, or against the debtor is pending.)

Yes

8. Others entitled to notice

Attach a list containing the names and addresses of:

- (i) all persons or bodies authorized to administer foreign proceedings of the debtor,
 - (ii) all parties to litigation pending in the United States in which the debtor is a party at the time of filing of this petition, and
 - (iii) all entities against whom provisional relief is being sought under § 1519 of the Bankruptcy Code.
-

9. Addresses

Country where the debtor has the center of its main interests:

Debtor's registered office:

Number Street _____

P.O. Box _____

City State/Province/Region ZIP/Postal Code _____

Country _____

Individual debtor's habitual residence:

Number Street _____

P.O. Box _____

City State/Province/Region ZIP/Postal Code _____

Country _____

Address of foreign representative(s):

Number Street _____

P.O. Box _____

City State/Province/Region ZIP/Postal Code _____

Country _____

10. Debtor's website (URL)

11. Type of debtor

Check one:

- Non-individual (check one):
 - Corporation. Attach a corporate ownership statement containing the information described in Fed. R. Bankr. P. 7007.1.
 - Partnership
 - Other. Specify: _____
 - Individual
-

12. Why is venue proper in this district?

Check one:

- Debtor's principal place of business or principal assets in the United States are in this district.
- Debtor does not have a place of business or assets in the United States, but the following action or proceeding in a federal or state court is pending against the debtor in this district:

- If neither box is checked, venue is consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative, because:

13. Signature of foreign representative(s)

I request relief in accordance with chapter 15 of title 11, United States Code.

I am the foreign representative of a debtor in a foreign proceeding, the debtor is eligible for the relief sought in this petition, and I am authorized to file this petition.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct,

X

Signature of foreign representative

Printed name

Executed on

MM / DD / YYYY

X

Signature of foreign representative

Printed name

Executed on

MM / DD / YYYY

14. Signature of attorney

X

Signature of Attorney for foreign representative

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

Committee Note

Official Form 401 is required for any petition seeking recognition of a foreign proceeding under chapter 15 of the Bankruptcy Code. The form, which applies to foreign proceedings involving individual and non-individual debtors, consolidates information formerly included on Official Form 1 (Voluntary Petition). The petition must be signed by the foreign representative, under penalty of perjury, and by the foreign representative's attorney.

The petition requires disclosure of the foreign proceeding in which the foreign representative has been appointed (Line 4) and whether it is a foreign main proceeding or foreign nonmain proceeding (Line 5). If the foreign representative seeks recognition of the foreign proceeding as a foreign main proceeding or, in the alternative, a foreign nonmain proceeding, that request should be indicated in Line 5. Each country where any additional foreign proceeding known to the foreign representative is pending must be disclosed on Line 7. See Bankruptcy Rule 1004.2. Evidence of the foreign proceeding and of the foreign representative's appointment must accompany the petition. See 11 U.S.C. § 1515(b). These documents must be translated into English in accordance with 11 U.S.C. § 1515(d). The foreign representative must also attach a list of persons or bodies entitled to notice. See Bankruptcy Rule 2002(q).

The petition calls for information about the debtor, including the debtor's name (Line 1), other unique identifying information, if available (Line 2), and center of main interest (Line 9). The type of debtor is also requested (Line 11).

The foreign representative must indicate the basis for venue in the district by selecting an appropriate checkbox and, if necessary, providing additional information, such as a statement explaining why venue in the district is appropriate (Line 12). See 28 U.S.C. § 1410.

Note Concerning Proposed Official Form 113 (Chapter 13 Plan) and Amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009 of the Federal Rules of Bankruptcy Procedure

The Committee on Rules of Practice and Procedure, at the request of the Advisory Committee on Bankruptcy Rules, has approved the publication of proposed Official Form 113 and related amendments to nine bankruptcy rules. The form and accompanying rule amendments were initially published for public comment in August 2013 and have been revised in response to the comments received.

The Advisory Committee now seeks to direct attention to an issue that was not specifically identified when the form and rule amendments were published last year. The Advisory Committee drafted the form and rule amendments as complementary parts of a project to improve the chapter 13 process. Several committee members believe that this complementary relationship should be maintained, and that the rule amendments should be considered only in conjunction with adoption of the plan form. The Advisory Committee would appreciate public comment on this issue. Specifically, the Committee invites comment on the following question:

To what extent is it preferable that the amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009 be adopted in conjunction with a chapter 13 plan form?

Also, please note that several of these proposed rule amendments are not limited in their application to chapter 13 cases, but would also affect cases filed under other chapters of the Code.

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1 **Rule 2002. Notices to Creditors, Equity Security**
2 **Holders, Administrators in Foreign**
3 **Proceedings, Persons Against Whom**
4 **Provisional Relief is Sought in Ancillary**
5 **and Other Cross-Border Cases, United**
6 **States, and United States Trustee**

7 (a) TWENTY-ONE-DAY NOTICES TO PARTIES
8 IN INTEREST. Except as provided in subdivisions (h), (i),
9 (l), (p), and (q) of this rule, the clerk, or some other person
10 as the court may direct, shall give the debtor, the trustee, all
11 creditors and indenture trustees at least 21 days' notice by
12 mail of:

13 * * * * *

14 (7) the time fixed for filing proofs of claims
15 pursuant to Rule 3003(c); ~~and~~

16 (8) the time fixed for filing objections and the
17 hearing to consider confirmation of a chapter 12 plan;

18 and

19 (9) the time fixed for filing objections to
20 confirmation of a chapter 13 plan.

21 (b) TWENTY-EIGHT-DAY NOTICES TO
22 PARTIES IN INTEREST. Except as provided in
23 subdivision (l) of this rule, the clerk, or some other person
24 as the court may direct, shall give the debtor, the trustee, all
25 creditors and indenture trustees not less than 28 days'
26 notice by mail of the time fixed

27 (1) for filing objections and the hearing to
28 consider approval of a disclosure statement or, under
29 §1125(f), to make a final determination whether the
30 plan provides adequate information so that a separate
31 disclosure statement is not necessary; ~~and~~

32 (2) for filing objections and the hearing to
33 consider confirmation of a chapter 9; or chapter 11; ~~or~~
34 ~~chapter 13 plan;~~ and

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35 (3) for the hearing to consider confirmation of
36 a chapter 13 plan.

37 * * * * *

Committee Note

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days' notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

1 **Rule 3002. Filing Proof of Claim or Interest**

2 (a) NECESSITY FOR FILING. ~~An~~A secured
3 creditor, unsecured creditor, or an equity security holder
4 must file a proof of claim or interest for the claim or
5 interest to be allowed, except as provided in Rules 1019(3),
6 3003, 3004, and 3005. A lien that secures a claim against
7 the debtor is not void due only to the failure of any entity to
8 file a proof of claim.

9 (b) PLACE OF FILING. A proof of claim or
10 interest shall be filed in accordance with Rule 5005.

11 (c) TIME FOR FILING. In a voluntary chapter 7
12 ~~liquidation~~case, chapter 12 ~~family—farmer’s—debt~~
13 ~~adjustment~~case, or chapter 13 ~~individual’s—debt~~
14 ~~adjustment~~case, a proof of claim is timely filed if it is filed
15 not later than ~~90~~60 days after the order for relief or the date
16 of the order of conversion to a case under chapter 12 or
17 chapter 13. In an involuntary chapter 7 case, a proof of

14 FEDERAL RULES OF BANKRUPTCY PROCEDURE

18 claim is timely filed if it is filed not later than 90 days after
19 the order for relief is entered.~~the first date set for the~~
20 ~~meeting of creditors called under § 341(a) of the Code,~~
21 ~~except as follows:~~ But in all these cases, the following
22 exceptions apply:

23 * * * * *

24 (6) ~~If notice of the time to file a proof of claim~~
25 ~~has been mailed to a creditor at a foreign address, o~~On
26 ~~motion filed by the~~a creditor before or after the
27 expiration of the time to file a proof of claim, the
28 court may extend the time by not more than 60 days
29 from the date of the order granting the motion. The
30 motion may be granted if the court finds that~~the~~
31 ~~notice was insufficient under the circumstances to~~
32 ~~give the creditor a reasonable time to file a proof of~~
33 ~~claim~~

34 (A) the notice was insufficient under the
35 circumstances to give the creditor a reasonable
36 time to file a proof of claim because the debtor
37 failed to timely file the list of creditors' names
38 and addresses required by Rule 1007(a); or

39 (B) the notice was insufficient under the
40 circumstances to give the creditor a reasonable
41 time to file a proof of claim, and the notice was
42 mailed to the creditor at a foreign address.

43 (7) A proof of claim filed by the holder of a
44 claim that is secured by a security interest in the
45 debtor's principal residence is timely filed if:

46 (A) the proof of claim, together with the
47 attachments required by Rule 3001(c)(2)(C), is
48 filed not later than 60 days after the order for
49 relief is entered; and

50 (B) any attachments required by
51 Rule 3001(c)(1) and (d) are filed as a supplement
52 to the holder's claim not later than 120 days after
53 the order for relief is entered.

Committee Note

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with § 506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The inclusion of language from § 506(d) is not intended to effect any change of law with respect to claims subject to setoff under § 553. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules 3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the

§ 341 meeting of creditors to 60 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 60-day time for filing runs from the order of conversion. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.

Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within 60 days of the order for relief. The claim will be timely if any additional documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See § 301 and § 303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to any proof of claim.

1 **Rule 3007. Objections to Claims**

2 (a) ~~OBJECTIONS TO CLAIMS~~TIME AND
3 MANNER OF SERVICE. An objection to the allowance
4 of a claim and a notice of objection that substantially
5 conforms to the appropriate Official Form shall be ~~in~~
6 ~~writing and filed.~~ and served at least 30 days before any
7 scheduled hearing on the objection or any deadline for the
8 claimant to request a hearing. ~~A copy of the objection with~~
9 ~~notice of the hearing thereon shall be mailed or otherwise~~
10 ~~delivered to the claimant, the debtor or debtor in~~
11 ~~possession, and the trustee at least 30 days prior to the~~
12 ~~hearing.~~The objection and notice shall be served as follows:

13 (1) on the claimant by first-class mail to the
14 person most recently designated on the claimant's
15 original or amended proof of claim as the person to
16 receive notices, at the address so indicated; and

17 (A) if the objection is to a claim of the
18 United States, or any of its officers or agencies,
19 in the manner provided for service of a summons
20 and complaint by Rule 7004(b)(4) or (5); or
21 (B) if the objection is to a claim of an
22 insured depository institution, in the manner
23 provided by Rule 7004(h); and
24 (2) on the debtor or debtor in possession and on
25 the trustee by first-class mail or other permitted
26 means.

27 * * * * *

Committee Note

Subdivision (a) is amended to specify the manner in which an objection to a claim and notice of the objection must be served. It clarifies that Rule 7004 does not apply to the service of most claim objections. Instead, a claimant must be served by first-class mail addressed to the person that the claimant most recently designated on its proof of claim to receive notices, at the address so indicated. If, however, the claimant is the United States, an officer or

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agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004. The service methods for the depository institutions are statutorily mandated, and the size and dispersal of the decision-making and litigation authority of the federal government necessitate service on the appropriate United States attorney's office and the Attorney General, as well as the person designated on the proof of claim.

As amended, subdivision (a) no longer requires that a hearing be scheduled or held on every objection. The rule requires the objecting party to provide notice and an opportunity for a hearing on the objection, but, by deleting from the subdivision references to "the hearing," it permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing. The official notice form served with a copy of the objection will inform the claimant of any actions it must take. However, while a local rule may require the claimant to respond to the objection to a proof of claim, the court will still need to determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

1 **Rule 3012. ~~Valuation of Security~~Determining the**
2 **Amount of Secured and Priority Claims**

3 ~~The court may determine the value of a claim secured~~
4 ~~by a lien on property in which the estate has an interest on~~
5 ~~motion of any party in interest and after a hearing on notice~~
6 ~~to the holder of the secured claim and any other entity as~~
7 ~~the court may direct.~~

8 (a) DETERMINATION OF AMOUNT OF CLAIM.
9 On request by a party in interest and after notice—to the
10 holder of the claim and any other entity the court
11 designates—and a hearing, the court may determine

12 (1) the amount of a secured claim under §
13 506(a) of the Code, or

14 (2) the amount of a claim entitled to priority
15 under § 507 of the Code.

16 (b) REQUEST FOR DETERMINATION; HOW
17 MADE. Except as provided in subdivision (c), a request to

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18 determine the amount of a secured claim may be made by
19 motion, in a claim objection, or in a plan filed in a
20 chapter 12 or chapter 13 case. When the request is made in
21 a chapter 12 or chapter 13 plan, the plan shall be served on
22 the holder of the claim and any other entity the court
23 designates in the manner provided for service of a
24 summons and complaint by Rule 7004. A request to
25 determine the amount of a claim entitled to priority may be
26 made only by motion after a claim is filed or in a claim
27 objection.

28 (c) CLAIMS OF GOVERNMENTAL UNITS. A
29 request to determine the amount of a secured claim of a
30 governmental unit may be made only by motion or in a
31 claim objection after the governmental unit files a proof of
32 claim or after the time for filing one under Rule 3002(c)(1)
33 has expired.

Committee Note

This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. When the request is made in a plan, the plan must be served on the holder of the claim and any other entities the court designates according to Rule 7004. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made only by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

1 **Rule 3015. Filing, Objection to Confirmation, Effect of**
2 **Confirmation, and Modification of a Plan**
3 **in a Chapter 12 ~~Family Farmer's Debt~~**
4 **~~Adjustment~~ or a Chapter 13 ~~Individual's~~**
5 **~~Debt Adjustment Case~~**

6 (a) FILING OF CHAPTER 12 PLAN. The debtor
7 may file a chapter 12 plan with the petition. If a plan is not
8 filed with the petition, it shall be filed within the time
9 prescribed by § 1221 of the Code.

10 (b) FILING OF CHAPTER 13 PLAN. The debtor
11 may file a chapter 13 plan with the petition. If a plan is not
12 filed with the petition, it shall be filed within 14 days
13 thereafter, and such time may not be further extended
14 except for cause shown and on notice as the court may
15 direct. If a case is converted to chapter 13, a plan shall be
16 filed within 14 days thereafter, and such time may not be
17 further extended except for cause shown and on notice as
18 the court may direct.

19 (c) ~~DATING.~~—~~Every proposed plan and any~~
20 ~~modification thereof shall be dated.~~FORM OF CHAPTER
21 13 PLAN. If there is an Official Form for a plan filed in a
22 chapter 13 case, that form must be used. Provisions not
23 otherwise included in the Official Form or deviating from it
24 are effective only if they are included in a section of the
25 Official Form designated for nonstandard provisions and
26 are also identified in accordance with any other
27 requirements of the Official Form.

28 (d) ~~NOTICE AND COPIES.~~ If the plan~~The plan or~~
29 ~~a summary of the plan shall be~~ is not included with the~~each~~
30 notice of the hearing on confirmation mailed pursuant to
31 Rule 2002, the debtor shall serve the plan on the trustee and
32 all creditors when it is filed with the court.~~If required by~~
33 ~~the court, the debtor shall furnish a sufficient number of~~
34 ~~copies to enable the clerk to include a copy of the plan with~~
35 ~~the notice of the hearing.~~

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36 (e) TRANSMISSION TO UNITED STATES
37 TRUSTEE. The clerk shall forthwith transmit to the
38 United States trustee a copy of the plan and any
39 modification thereof filed pursuant to subdivision (a) or (b)
40 of this rule.

41 (f) OBJECTION TO CONFIRMATION;
42 DETERMINATION OF GOOD FAITH IN THE
43 ABSENCE OF AN OBJECTION. An objection to
44 confirmation of a plan shall be filed and served on the
45 debtor, the trustee, and any other entity designated by the
46 court, and shall be transmitted to the United States trustee,
47 ~~before confirmation of the plan~~ at least seven days before
48 the date set for the hearing on confirmation. An objection
49 to confirmation is governed by Rule 9014. If no objection
50 is timely filed, the court may determine that the plan has
51 been proposed in good faith and not by any means

52 forbidden by law without receiving evidence on such
53 issues.

54 (g) EFFECT OF CONFIRMATION. In a chapter 12
55 or chapter 13 case, any determination made in accordance
56 with Rule 3012 of the amount of a secured claim under §
57 506(a) of the Code is binding on its holder, even if the
58 holder files a contrary proof of claim under Rule 3002 or
59 the debtor schedules that claim under § 521(a) of the Code,
60 and regardless of whether an objection to the claim has
61 been filed under Rule 3007.

62 ~~(g)~~(h) MODIFICATION OF PLAN AFTER
63 CONFIRMATION. A request to modify a plan pursuant to
64 § 1229 or § 1329 of the Code shall identify the proponent
65 and shall be filed together with the proposed modification.
66 The clerk, or some other person as the court may direct,
67 shall give the debtor, the trustee, and all creditors not less
68 than 21 days notice by mail of the time fixed for filing

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69 objections and, if an objection is filed, the hearing to
70 consider the proposed modification, unless the court orders
71 otherwise with respect to creditors who are not affected by
72 the proposed modification. A copy of the notice shall be
73 transmitted to the United States trustee. A copy of the
74 proposed modification, or a summary thereof, shall be
75 included with the notice. ~~If required by the court, the~~
76 ~~proponent shall furnish a sufficient number of copies of the~~
77 ~~proposed modification, or a summary thereof, to enable the~~
78 ~~clerk to include a copy with each notice.~~If a copy is not
79 included with the notice and the proposed modification is
80 sought by the debtor, a copy shall be served on the trustee
81 and all creditors in the manner provided for service of the
82 plan by subdivision (d) of this rule. Any objection to the
83 proposed modification shall be filed and served on the
84 debtor, the trustee, and any other entity designated by the
85 court, and shall be transmitted to the United States trustee.

- 86 An objection to a proposed modification is governed by
87 Rule 9014.

Committee Note

This rule is amended and reorganized.

Subdivision (c) is amended to require use of an Official Form if one is adopted for chapter 13 plans. The amended rule also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official Form specifically designated for such provisions and identified in the manner required by the Official Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan in advance of confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan. The seven-day notice period may be altered in a particular case by the court under Rule 9006.

Subdivision (g) is amended to provide that the amount of a secured claim under § 506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination controls over a contrary proof of claim, without the need for a claim

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objection under Rule 3007, and over the schedule submitted by the debtor under § 521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012.

Subdivision (h) was formerly subdivision (g). It is redesignated and amended to clarify that service of a proposed plan modification must be made in accordance with subdivision (d) of this rule. The option to serve a summary of the proposed modification has been retained. Unless required by another rule, service under this subdivision does not need to be made in the manner provided for service of a summons and complaint by Rule 7004.

1 **Rule 4003. Exemptions**

2 * * * * *

3 (d) AVOIDANCE BY DEBTOR OF TRANSFERS
4 OF EXEMPT PROPERTY. A proceeding under § 522(f)
5 ~~by the debtor~~ to avoid a lien or other transfer of property
6 exempt under ~~§ 522(f)~~ of the Code shall be commenced by
7 motion in the manner provided by ~~in accordance with~~
8 Rule 9014, or by serving a chapter 12 or chapter 13 plan on
9 the affected creditors in the manner provided by Rule 7004
10 for service of a summons and complaint. Notwithstanding
11 the provisions of subdivision (b), a creditor may object to a
12 ~~motion filed~~ request under § 522(f) by challenging the
13 validity of the exemption asserted to be impaired by the
14 lien.

Committee Note

Subdivision (d) is amended to provide that a request under § 522(f) to avoid a lien or other transfer of exempt

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property may be made by motion or by a chapter 12 or chapter 13 plan. A plan that proposes lien avoidance in accordance with this rule must be served as provided under Rule 7004 for service of a summons and complaint. Lien avoidance not governed by this rule requires an adversary proceeding.

1 **Rule 5009. Closing Chapter 7—Liquidation, Chapter 12**
2 **Family—Farmer’s Debt Adjustment,**
3 **Chapter 13—Individual’s Debt Adjustment,**
4 **and Chapter 15—Ancillary and Cross-**
5 **Border Cases; Order Declaring Lien**
6 **Satisfied**

7 (a) CLOSING OF CASES UNDER CHAPTERS 7,
8 12, AND 13. If in a chapter 7, chapter 12, or chapter 13
9 case the trustee has filed a final report and final account
10 and has certified that the estate has been fully administered,
11 and if within 30 days no objection has been filed by the
12 United States trustee or a party in interest, there shall be a
13 presumption that the estate has been fully administered.

14 * * * * *

15 (d) ORDER DECLARING LIEN SATISFIED. In a
16 chapter 12 or chapter 13 case, if a claim that was secured
17 by property of the estate is subject to a lien under
18 applicable nonbankruptcy law, the debtor may request entry
19 of an order declaring that the secured claim has been

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20 satisfied and the lien has been released under the terms of a
21 confirmed plan. The request shall be made by motion and
22 shall be served on the holder of the claim and any other
23 entity the court designates in the manner provided by
24 Rule 7004 for service of a summons and complaint.

Committee Note

Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a request at another time if the lien has been released and any other requirements for entry of the order have been met.

Other changes to this rule are stylistic.

1 **Rule 7001. Scope of Rules of Part VII**

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

4 * * * * *

5 (2) a proceeding to determine the validity,
6 priority, or extent of a lien or other interest in
7 property, ~~other than~~but not a proceeding under
8 Rule 3012 or Rule 4003(d);

9 * * * * *

Committee Note

Subdivision (2) is amended to provide that the determination of the amount of a secured claim under Rule 3012 or the validity, priority, or extent of a lien under Rule 4003(d) does not require an adversary proceeding. The determination of the amount of a secured claim may be sought through a chapter 12 or chapter 13 plan in accordance with Rule 3012. Thus, a debtor may propose to eliminate a wholly unsecured junior lien in a chapter 12 or chapter 13 plan without a separate adversary proceeding. Similarly, the avoidance of a lien on exempt property may be sought through a chapter 12 or chapter 13 plan in accordance with Rule 4003(d). An adversary proceeding

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continues to be required for lien avoidance not governed by Rule 4003(d).

1 **Rule 9009. Forms**

2 (a) OFFICIAL FORMS. ~~Except as otherwise~~
3 ~~provided in Rule 3016(d), the~~The Official Forms prescribed
4 by the Judicial Conference of the United States shall be
5 ~~observed and used with alterations as may be~~
6 ~~appropriate~~without alteration, except as otherwise provided
7 in these rules, in a particular Official Form, or in the
8 national instructions for a particular Official Form. ~~Forms~~
9 ~~may be combined and their contents rearranged to permit~~
10 ~~economies in their use.~~Official Forms may be modified to
11 permit minor changes not affecting wording or the order of
12 presenting information, including changes that

13 (1) expand the prescribed areas for responses in
14 order to permit complete responses;

15 (2) delete space not needed for responses; or

16 (3) delete items requiring detail in a question or
17 category if the filer indicates—either by checking

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18 “no” or “none” or by stating in words—that there is

19 nothing to report on that question or category.

20 (b) DIRECTOR’S FORMS. The Director of the

21 Administrative Office of the United States Courts may

22 issue additional forms for use under the Code.

23 (c) CONSTRUCTION. The forms shall be

24 construed to be consistent with these rules and the Code.

Committee Note

This rule is amended and reorganized into separate subdivisions.

Subdivision (a) addresses permissible modifications to Official Forms. It requires that an Official Form be used without alteration, except when another rule, the Official Form itself, or the national instructions applicable to an Official Form permit alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability to make minor modifications to an Official Form that do not affect the wording or the order in which information is presented on a form. Permissible changes include those that merely expand or delete the space for responses as appropriate or delete inapplicable items so long as the filer indicates that no response is intended. For example, when more space will be necessary

to completely answer a question on an Official Form without an attachment, the answer space may be expanded. Similarly, varying the width or orientation of columnar data on a form for clarity of presentation would be a permissible minor change. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. Any changes that contravene the directions on an Official Form would be prohibited by this rule.

The creation of subdivision (b) and subdivision (c) is stylistic.

Debtor _____

United States Bankruptcy Court for the: _____
[Bankruptcy district]

Case number: _____

Check if this is an amended plan

Official Form 113

Chapter 13 Plan

12/16

Part 1: Notices

To Debtors: This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. *In the following notice to creditors, you must check each box that applies.*

To Creditors: Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

The following matters may be of particular importance to you. **Boxes must be checked by debtor(s) if applicable.**

- The plan seeks to limit the amount of a secured claim, as set out in Part 3, Section 3.2, which may result in a partial payment or no payment at all to the secured creditor.
- The plan requests the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as set out in Part 3, Section 3.4.
- The plan sets out nonstandard provisions in Part 9.

Part 2: Plan Payments and Length of Plan

2.1 Debtor(s) will make regular payments to the trustee as follows:

\$ _____ per _____ for _____ months
[and \$ _____ per _____ for _____ months.] *Insert additional lines if needed.*

If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in Parts 3 through 6 of this plan.

2.2 Regular payments to the trustee will be made from future earnings in the following manner:

Check all that apply.

- Debtor(s) will make payments pursuant to a payroll deduction order.
- Debtor(s) will make payments directly to the trustee.
- Other (specify method of payment): _____.

2.3 Federal income tax refunds.

Check one.

- Debtor(s) will retain any federal tax refunds received during the plan term.
- Debtor(s) will supply the trustee with a copy of each federal tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all federal income tax refunds, other than earned income tax credits, received during the plan term.
- Debtor(s) will supply the trustee with federal tax returns filed during the plan term and will turn over to the trustee a portion of any federal income tax refunds received during the plan term as specified below.

2.4 Additional payments.

Check one.

- None.** If "None" is checked, the rest of § 2.4 need not be completed or reproduced.
- Debtor(s) will make additional payment(s) to the trustee from other sources, as specified below. Describe the source, estimated amount, and date of each anticipated payment.

2.5 The total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ _____.

Part 3: Treatment of Secured Claims

3.1 Maintenance of payments and cure of any default.

Check one.

- None.** If "None" is checked, the rest of § 3.1 need not be completed or reproduced.
- The debtor(s) will maintain the contractual installment payments on the claims listed below, with any changes required by the applicable contract, and cure any default in payments on the secured claims listed below. The allowed claim for any arrearage amount will be paid under the plan, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease and all secured claims based on that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Current installment payment (including escrow)	Amount of arrearage	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				

Insert additional claims as needed.

3.2 Request for valuation of security and claim modification. Check one.

None. If "None" is checked, the rest of § 3.2 need not be completed or reproduced.

The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.

The debtor(s) request that the court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor(s) state that the value of the secured claim should be as stated below in the column headed *Amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the court, the amounts listed in proofs of claim filed in accordance with the Bankruptcy Rules control over any contrary amounts listed below. For each listed secured claim, the controlling amount of the claim will be paid in full under the plan with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

The holder of any claim listed below as having value in the column headed *Amount of secured claim* will retain the lien until the earlier of:

- (a) payment of the underlying debt determined under nonbankruptcy law, or
- (b) discharge under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor. See Bankruptcy Rule 3015.

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____

Insert additional claims as needed.

3.3 Secured claims excluded from 11 U.S.C. § 506.

Check one.

None. If "None" is checked, the rest of § 3.3 need not be completed or reproduced.

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	

Insert additional claims as needed.

3.4 Lien avoidance.

Check one.

- None.** If "None" is checked, the rest of § 3.4 need not be completed or reproduced.
The remainder of this paragraph will be effective only if the applicable box on Part 1 of this plan is checked.

The judicial liens or nonpossessory, nonpurchase money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). A judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of the order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 5. The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d). *If more than one lien is to be avoided, provide the information separately for each lien.*

Information regarding judicial lien or security interest	Calculation of lien avoidance		Treatment of remaining secured claim
Name of creditor _____	a. Amount of lien	\$ _____	Amount of secured claim after avoidance (line a minus line f) \$ _____
	b. Amount of all other liens	\$ _____	
Collateral _____	c. Value of claimed exemptions	+ \$ _____	Interest rate (if applicable)
	d. Total of adding lines a, b, and c	\$ _____	_____ %
Lien identification (such as judgment date, date of lien recording, book and page number) _____ _____	e. Value of debtor's interest in property	- \$ _____	Monthly plan payment \$ _____
	f. Subtract line e from line d.	\$ _____	Estimated total payments on secured claim \$ _____
Extent of exemption impairment (Check applicable box):			
<input type="checkbox"/> Line f is equal to or greater than line a. The entire lien is avoided. (Do not complete the next column.)			
<input type="checkbox"/> Line f is less than line a. A portion of the lien is avoided. (Complete the next column.)			

Insert additional claims as needed.

3.5 Surrender of collateral.

Check one.

- None.** If "None" is checked, the rest of § 3.5 need not be completed or reproduced.
- The debtor(s) elect to surrender to each creditor listed below the collateral that secures the creditor's claim. The debtor(s) consent to termination of the stay under 11 U.S.C. § 362(a) and § 1301 with respect to the collateral upon confirmation of the plan. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Name of creditor	Collateral
_____	_____
_____	_____

Insert additional claims as needed.

Part 4: Treatment of Trustee's Fees and Priority Claims

4.1 General

Trustee's fees and all allowed priority claims other than those treated in § 4.5 will be paid in full without interest.

4.2 Trustee's fees

Trustee's fees are estimated to be _____% of plan payments; and during the plan term, they are estimated to total \$_____.

4.3 Attorney's fees

The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$_____.

4.4 Priority claims other than attorney's fees and those treated in § 4.5.

Check one.

- None.** If "None" is checked, the rest of § 4.4 need not be completed or reproduced.
- The debtor estimates the total amount of other priority claims to be _____.

4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.

Check one.

- None.** If "None" is checked, the rest of § 4.5 need not be completed or reproduced.
- The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4), but not less than the amount that would have been paid on such claim if the estate of the debtor were liquidated under chapter 7, see 11 U.S.C. § 1325(a)(4).

Name of creditor	Amount of claim to be paid
_____	\$ _____
_____	\$ _____

Insert additional claims as needed.

Part 5: Treatment of Nonpriority Unsecured Claims

5.1 General

Nonpriority unsecured claims will be paid to the extent allowed as specified in this Part.

5.2 Nonpriority unsecured claims not separately classified.

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata. If more than one option is checked, the option providing the largest payment will be effective. *Check all that apply.*

- The sum of \$_____.
- _____% of the total amount of these claims.
- The funds remaining after disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7, nonpriority unsecured claims would be paid approximately \$_____. Regardless of the options checked above, payments on allowed nonpriority unsecured claims will be made in at least this amount.

5.3 Interest on allowed nonpriority unsecured claims not separately classified. Check one.

- None.** If "None" is checked, the rest of § 5.3 need not be completed or reproduced.
- Interest on allowed nonpriority unsecured claims that are not separately classified will be paid at an annual percentage rate of ____ % under 11 U.S.C. §1325(a)(4), and is estimated to total \$ _____.

5.4 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.

- None.** If "None" is checked, the rest of § 5.4 need not be completed or reproduced.
- The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. The allowed claim for the arrearage amount will be paid under the plan.

Name of creditor	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____

Insert additional claims as needed.

5.5 Other separately classified nonpriority unsecured claims. Check one.

- None.** If "None" is checked, the rest of § 5.5 need not be completed or reproduced.
- The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows:

Name of creditor	Basis for separate classification and treatment	Amount to be paid on the claim	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____%	\$ _____
_____	_____	\$ _____	_____%	\$ _____

Insert additional claims as needed.

Part 6: Executory Contracts and Unexpired Leases

6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.

- None.** If "None" is checked, the rest of § 6.1 need not be completed or reproduced.
- Assumed items.** The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Property description	Treatment (Refer to other plan section if applicable)	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____
_____	_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____

Insert additional contracts or leases as needed.

Part 7: Order of Distribution of Trustee Payments

7.1 The trustee will make the monthly payments required in Parts 3 through 6 in the following order, with payments other than those listed to be made in the order determined by the trustee:

- a. Trustee's fees
- b. _____
- c. _____ *Insert additional lines if needed.*

Part 8: Vesting of Property of the Estate

8.1 Property of the estate shall revert in the debtor(s) upon

Check the applicable box:

- plan confirmation.
- closing of the case.
- other: _____.

Part 9: Nonstandard Plan Provisions

None. If "None" is checked, the rest of Part 9 need not be completed or reproduced.

Under Bankruptcy Rule 3015(c), nonstandard provisions are required to be set forth below.

These plan provisions will be effective only if the applicable box in Part 1 of this plan is checked.

Part 10: Signatures

X _____ Date _____

Signature of Attorney for Debtor(s)

X _____ Date _____

X _____ Date _____

Signature(s) of Debtor(s) (required if not represented by an attorney; otherwise optional)

Chapter 13 Plan Exhibit: Estimated Amounts of Trustee Payments

The trustee will make the following estimated payments on allowed claims in the order set forth in Section 7.1:

- a. **Maintenance and cure payments on secured claims** *(Part 3, Section 3.1 total):* \$ _____
- b. **Modified secured claims** *(Part 3, Section 3.2 total):* \$ _____
- c. **Secured claims excluded from 11 U.S.C. § 506** *(Part 3, Section 3.3 total):* \$ _____
- d. **Judicial liens or security interests partially avoided** *(Part 3, Section 3.4 total):* \$ _____
- e. **Administrative and other priority claims** *(Part 4 total):* \$ _____
- f. **Nonpriority unsecured claims** *(Part 5, Section 5.2 total):* \$ _____
- g. **Interest on allowed unsecured claims** *(Part 5, Section 5.3 total)* \$ _____
- h. **Maintenance and cure payments on unsecured claims** *(Part 5, Section 5.4 total)* \$ _____
- i. **Separately classified unsecured claims** *(Part 5, Section 5.5 total)* \$ _____
- j. **Arrearage payments on executory contracts and unexpired leases** *(Part 6, Section 6.1 total)* + \$ _____

Total of lines a through j.....

\$ _____

United States Bankruptcy Court for the District of _____

Debtor(s): John and Mary Smith

Case No.: 14 B 12345

Date: December 2, 2016

Check if this is an amended plan

Official Form 113

Chapter 13 Plan

12/16

Part 1: Notices

To Debtors: This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. In the following notice to creditors, you must check each box that applies.

To Creditors: Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

The following matters may be of particular importance to you. Boxes must be checked by debtor(s) if applicable.

- The plan seeks to limit the amount of a secured claim, as set out in Part 3, Section 3.2, which may result in a partial payment or no payment at all to the secured creditor.
 The plan requests the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as set out in Part 3, Section 3.4.
 The plan sets out nonstandard provisions in Part 9.

Part 2: Plan Payments and Length of Plan

2.1 Debtor(s) will make regular payments to the trustee as follows:

\$ 2500 per month for 56 months

If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in Parts 3 through 6 of this plan.

2.2 Regular payments to the trustee will be made from future earnings in the following manner: Check all that apply.

- Debtor(s) will make payments pursuant to a payroll deduction order.
 Debtor(s) will make payments directly to the trustee.
 Other (specify method of payment): _____

2.3 Federal income tax refunds. Check one.

- Debtor(s) will retain any federal tax refunds received during the plan term.
 Debtor(s) will supply the trustee with a copy of each federal tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all federal income tax refunds, other than earned income tax credits, received during the plan term.
 Debtor(s) will supply the trustee with federal tax returns filed during the plan term and will turn over to the trustee a portion of any federal income tax refunds received during the plan term as specified below.

2.4 Additional payments. Check one.

None If "None" is checked, the rest of § 2.4 need not be completed or reproduced.

2.5 The total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ 140,000.

Part 3: Treatment of Secured Claims

3.1 Maintenance of payments and cure of any default. Check one.

None If "None" is checked, the rest of § 3.1 need not be completed or reproduced.

The debtor(s) will maintain the contractual installment payments on the claims listed below, with any changes required by the applicable contract, and cure any default in payments on the secured claims listed below. The allowed claim for any arrearage amount will be paid under the plan, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease and all secured claims based on that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Current installment payment (including escrow)	Amount of arrearage	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
Mortgage Servicer, Inc.	Home at 123 Main St City, State	\$1,500 Disbursed by: <input checked="" type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$3,000		100	\$87,000

3.2 Request for valuation of security and claim modification. Check one.

None If "None" is checked, the rest of § 3.2 need not be completed or reproduced.

3.3 Secured claims excluded from 11 U.S.C. § 506. Check one.

None If "None" is checked, the rest of § 3.3 need not be completed or reproduced.

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
Mortgage Servicer, Inc.	2012 Model Make Pickup Truck	\$8,400	3.0%	\$150 Disbursed by: <input type="checkbox"/> Trustee <input checked="" type="checkbox"/> Debtor(s)	\$400

3.4 Lien avoidance. Check one.

None If "None" is checked, the rest of Section § 3.4 need not be completed or reproduced.

3.5 Surrender of collateral. Check one.

None If "None" is checked, the rest of § 3.5 need not be completed or reproduced.

Part 4: Treatment of Trustee's Fees and Priority Claims

4.1 General

Trustee's fees and all allowed priority claims other than those treated in § 4.5 will be paid in full without interest.

4.2 Trustee's fees

Trustee's fees are estimated to be 10% of plan payments; and during the plan term, they are estimated to total \$ \$14,000.

4.3 Attorney's fees

The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$ 4,000.

4.4 Priority claims other than attorney's fees and those treated in § 4.5. Check one.

None If "None" is checked, the rest of § 4.4 need not be completed or reproduced.

4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount. Check one.

None If "None" is checked, the rest of § 4.5 need not be completed or reproduced.

Part 5: Treatment of Nonpriority Unsecured Claims

5.1 General

Nonpriority unsecured claims will be paid to the extent allowed as specified in this Part.

5.2 Nonpriority unsecured claims not separately classified.

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata. If more than one option is checked, the option providing the largest payment will be effective. *Check all that apply.*

The sum of \$_____.

_____% of the total amount of these claims.

The funds remaining **after** disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7, nonpriority unsecured claims would be paid approximately \$_____. Regardless of the options checked above, payments on allowed nonpriority unsecured claims will be made in at least this amount.

5.3 Interest on allowed nonpriority unsecured claims not separately classified. Check one.

None If "None" is checked, the rest of § 5.3 need not be completed or reproduced.

5.4 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.

None If "None" is checked, the rest of § 5.4 need not be completed or reproduced.

5.5 Other separately classified nonpriority unsecured claims. Check one.

None If "None" is checked, the rest of § 5.5 need not be completed or reproduced.

Part 6: Executory Contracts and Unexpired Leases

6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.

None If checked, the rest of § 6.1 need not be completed or reproduced.

Part 7: Order of Distribution of Trustee Payments

7.1 The trustee will make the monthly payments required in Parts 3 through 6 in the following order, with payments other than those listed to be made in the order determined by the trustee:

a. Trustee's fees

b. _____

c. _____ *Insert additional lines if needed.*

Part 8: Vesting of Property of the Estate

8.1 Property of the estate shall revert in the debtor(s) upon (Check the applicable box):

- plan confirmation.
- closing of the case.
- other: _____.

Part 9: Nonstandard Plan Provisions

None If "None" is checked, the rest of Part 9 need not be completed or reproduced.

Part 10: Signatures

X _____ Date _____

Signature of Attorney for Debtor(s)

X _____ Date _____

X _____ Date _____

Signature(s) of Debtor(s) (required if not represented by an attorney; otherwise optional)

Chapter 13 Plan Exhibit: Estimated Amounts of Trustee Payments

The trustee will make the following estimated payments on allowed claims in the order set forth in Section 7.1:

a. Maintenance and cure payments on secured claims (Part 3, Section 3.1 total):	\$ 87,000
b. Modified secured claims (Part 3, Section 3.2 total):	0
c. Secured claims excluded from 11 U.S.C. § 506 (Part 3, Section 3.3 total):	400
d. Judicial liens or security interests partially avoided (Part 3, Section 3.4 total):	0
e. Administrative and other priority claims (Part 4 total):	18,000
f. Nonpriority unsecured claims (Part 5, Section 5.2 total):	34,600
g. Interest on allowed unsecured claims (Part 5, Section 5.3 total)	0
h. Maintenance and cure payments on unsecured claims (Part 5, Section 5.4 total)	0
i. Separately classified unsecured claims (Part 5, Section 5.5 total)	0
j. Arrearage payments on executory contracts and unexpired leases (Part 6, Section 6.1 total)	\$0
Total of lines a through j	\$140,000

Committee Note

Official Form 113 is new and is the required plan form in all chapter 13 cases. *See* Bankruptcy Rule 3015. Alterations to the text of the form or the order of its provisions, except as permitted by the form itself, must comply with Bankruptcy Rule 9009. As the form explains, spaces for responses may be expanded or collapsed as appropriate, and sections that are inapplicable do not need to be reproduced. Portions of the form provide multiple options for provisions of a debtor's plan, but some of those options may not be appropriate in a given debtor's situation or may not be allowed in the court presiding over the case. Debtors are advised to refer to applicable local rulings.

Part 1. This part sets out warnings to both debtors and creditors. For creditors, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 9 of the plan proposes a provision not included in, or contrary to, the Official Form, that nonstandard provision will be ineffective if the appropriate check box in Part 1 is not selected.

Part 2. This part states the proposed periodic plan payments, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments from each check, that should be indicated in § 2.1. If the debtor proposes to make payments according to different "steps," the amounts and intervals of those payments should also be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make regular payments to the trustee. If the debtor selects the option of making payments pursuant to a payroll deduction order, that selection serves as a request by the debtor for entry of the order. Whether to enter a payroll deduction order is determined by the court. *See* Code § 1325(c). If the debtor selects the option of making payments other than by direct payments to the trustee or by a payroll deduction order, the alternative method (*e.g.*, a designated third party electronic funds transfer program) must be specified.

Part 3. This part provides for the treatment of secured claims.

Section 3.1 provides for the treatment of claims under Code § 1322(b)(5) (maintaining current payments and curing any arrearage). For the claim of a secured creditor listed in § 3.1, an estimated arrearage amount should be given. A contrary arrearage amount listed on the creditor's proof of claim, unless contested by objection or motion, will control over the amount given in the plan.

In § 3.2, the plan may propose to determine under Code § 506(a) the value of a secured claim. For example, the plan could seek to reduce the secured portion of a creditor's claim to the value of the collateral securing it. For the secured claim of a non-governmental creditor, that determination would be binding upon confirmation of the plan. For the secured claim of a governmental unit, however, a contrary valuation listed on the creditor's proof of claim, unless contested by objection or motion, would control over the valuation given in the plan. *See* Bankruptcy Rule 3012. Bankruptcy Rule 3002 contemplates that a debtor, the trustee, or another entity may file a proof of claim if the creditor does not do so in a timely manner. *See* Bankruptcy Rules 3004 and 3005. Section 3.2 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.3 deals with secured claims that may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for an interest rate other than the contract rate to be applied to payments on such a claim. If appropriate, a claim may be treated under § 3.1 instead of § 3.3.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). This section includes space for the calculation of the amount of the judicial lien or security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. *See* Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.5 provides for elections to surrender collateral and consent to termination of the stay under § 362(a) and § 1301 with respect to the collateral

surrendered. Termination will be effective upon confirmation of the plan.

Part 4. This part provides for the treatment of trustee's fees and claims entitled to priority status. Section 4.1 provides that trustee's fees and all allowed priority claims (other than those domestic support obligations treated in § 4.5) will be paid in full. In § 4.2, the plan lists an estimate of the trustee's fees. Although the estimate may indicate whether the plan will be feasible, it does not affect the trustee's entitlement to fees as determined by statute. In § 4.3, the form requests the balance of attorney's fees owed. Additional details about payments of attorney's fees, including information about their timing and approval, are left to the requirements of local practice. In § 4.4, the plan calls for an estimated amount of priority claims. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in § 4.4. In § 4.5, the plan may propose to pay less than the full amount of a domestic support obligation that has been assigned to, or is owed to, a governmental unit, but not less than the amount that claim would have received in a chapter 7 liquidation.

Part 5. This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.2, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or also provide that a defined percentage of the total amount of unsecured claims will be paid. In § 5.4, the plan may provide for the separate classification of nonpriority unsecured claims (such as co-debtor claims) as permitted under Code § 1322(b)(1).

Part 6. This part provides for executory contracts and unexpired leases. An executory contract or unexpired lease is rejected unless it is listed in this part. If the plan proposes neither to assume nor reject an executory contract or unexpired lease, that treatment would have to be set forth as a nonstandard provision in Part 9.

Part 7. This part provides an order of distribution of payments under the plan. Other than the trustee's fees, the order of distribution is left to be completed by the debtor in keeping with the requirements of the Code. The debtor may instead elect to have the trustee direct the order of distribution.

Part 8. This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon closing the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

Part 9. This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or are contrary to, the Official Form. All such nonstandard provisions must be set forth in this part and nowhere else in the plan. This part will not be effective unless the appropriate check box in Part 1 is selected. *See* Bankruptcy Rule 3015.

Part 10. The plan must be signed by the attorney for the debtor or debtors. If the debtor or debtors are not represented by an attorney, they must sign the plan, but the signature of represented debtors is optional.

1 **Rule 3002.1. Notice Relating to Claims Secured by**
2 **Security Interest in the Debtor's**
3 **Principal Residence**

4 (a) IN GENERAL. This rule applies in a chapter 13
5 case to claims (1) that are ~~(1)~~ secured by a security interest
6 in the debtor's principal residence, and (2) for which the
7 plan provides that either the trustee or the debtor will make
8 contractual installment payments ~~provided for under~~
9 ~~§ 1322(b)(5) of the Code in the debtor's plan.~~ Unless the
10 court orders otherwise, the notice requirements of this rule
11 cease to apply when an order terminating or annulling the
12 automatic stay becomes effective with respect to the
13 residence that secures the claim.

14 * * * * *

Committee Note

Subdivision (a) is amended to clarify the applicability of the rule. Its provisions apply whenever a chapter 13 plan provides that contractual payments on the debtor's home mortgage will be maintained, whether they

44 FEDERAL RULES OF BANKRUPTCY PROCEDURE

will be paid by the trustee or directly by the debtor. The reference to § 1322(b)(5) of the Code is deleted to make clear that the rule applies even if there is no prepetition arrearage to be cured. So long as a creditor has a claim that is secured by a security interest in the debtor's principal residence and the plan provides that contractual payments on the claim will be maintained, the rule applies.

Subdivision (a) is further amended to provide that, unless the court orders otherwise, the notice obligations imposed by this rule cease on the effective date of an order granting relief from the automatic stay with regard to the debtor's principal residence. Debtors and trustees typically do not make payments on mortgages after the stay relief is granted, so there is generally no need for the holder of the claim to continue providing the notices required by this rule. Sometimes, however, there may be reasons for the debtor to continue receiving mortgage information after stay relief. For example, the debtor may intend to seek a mortgage modification or to cure the default. When the court determines that the debtor has a need for the information required by this rule, the court is authorized to order that the notice obligations remain in effect or be reinstated after the relief from the stay is granted.

1 **Rule 9006. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 (f) ADDITIONAL TIME AFTER SERVICE BY
5 MAIL OR UNDER RULE 5(b)(2)(D), ~~(E)~~, OR (F) F.R.
6 CIV. P. When there is a right or requirement to act or
7 undertake some proceedings within a prescribed period
8 after being served¹ and that service is by mail or under
9 Rule 5(b)(2)(D) (leaving with the clerk), ~~(E)~~, or (F) (other
10 means consented to) F.R. Civ. P., three days are added after
11 the prescribed period would otherwise expire under
12 Rule 9006(a).

13 * * * * *

¹ This wording reflects the proposed amendment published in August 2013.

Committee Note

Subdivision (f) is amended to remove service by electronic means under Civil Rule 5(b)(2)(E) from the modes of service that allow three added days to act after being served.

Rule 9006(f) and Civil Rule 6(d) contain similar provisions providing additional time for actions after being served by mail or by certain modes of service that are identified by reference to Civil Rule 5(b)(2). Rule 9006(f)—like Civil Rule 6(d)—is amended to remove the reference to service by electronic means under Rule 5(b)(2)(E). The amendment also adds clarifying parentheticals identifying the forms of service under Rule 5(b)(2) for which three days will still be added.

Civil Rule 5(b)—made applicable in bankruptcy proceedings by Rules 7005 and 9014(b)—was amended in 2001 to allow service by electronic means with the consent of the person served. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow three added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the three added days was that electronic service was authorized only with the

consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the three added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the three added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding three days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow three added days means that the three added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means” of delivery under subparagraph (F).

United States Bankruptcy Court

_____ District Of _____

In re _____ ,
Debtor

Case No. _____
Chapter _____

GENERAL POWER OF ATTORNEY

[Abrogated]

Committee Note

The form is abrogated. Former Official Form 11A, although abrogated as an Official Form, continues to be available as a Director's Procedural Form.

Parties routinely modify the General Power of Attorney form to conform to state law, the needs of the case, or local practice. The exact language of the form is not needed. The proposed amendment to Rule 9009, however, restricts alteration of the Official Forms, except as provided in the rules or in a particular Official Form.

The Director's Procedural Forms are issued by the Director of the Administrative Office pursuant to Rule 9009 as an accommodation for the courts and parties. The procedural forms may be altered as needed and their use is not mandatory, unless required by local rule.

United States Bankruptcy Court

_____ District Of _____

In re _____ ,
Debtor

Case No. _____
Chapter _____

SPECIAL POWER OF ATTORNEY

[Abrogated]

Committee Note

The form is abrogated. Former Official Form 11B, although abrogated as an Official Form, continues to be available as a Director's Procedural Form.

Parties routinely modify the Special Power of Attorney form to conform to state law, the needs of the case, or local practice. The exact language of the form is not needed. The proposed amendment to Rule 9009, however, restricts alteration of the Official Forms, except as provided in the rules or in a particular Official Form.

The Director's Procedural Forms are issued by the Director of the Administrative Office pursuant to Rule 9009 as an accommodation for the courts and parties. The procedural forms may be altered as needed and their use is not mandatory, unless required by local rule.

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
(Spouse, if filing) First Name Middle Name Last Name

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

Case number _____
(If known)

Check if this is:

- An amended filing
- A supplement showing post-petition chapter 13 expenses as of the following date:

MM / DD / YYYY

Official Form 106J

Schedule J: Your Expenses

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Your Household

1. Is this a joint case?

- No. Go to line 2.
- Yes. **Does Debtor 2 live in a separate household?**
 - No
 - Yes. Debtor 2 must file Official Forms 106J-2, *Expenses for Separate Household of Debtor 2*.

2. Do you have dependents?

Do not list Debtor 1 and Debtor 2.

Do not state the dependents' names.

	<input type="checkbox"/> No	<input type="checkbox"/> Yes. Fill out this information for each dependent.....	Dependent's relationship to Debtor 1 or Debtor 2	Dependent's age	Does dependent live with you?
_____		_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____		_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____		_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____		_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____		_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

3. Do your expenses include expenses of people other than yourself and your dependents?

- No
- Yes

Part 2: Estimate Your Ongoing Monthly Expenses

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed. If this is a supplemental *Schedule J*, check the box at the top of the form and fill in the applicable date.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on *Schedule I: Your Income* (Official Form B 106I.)

4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.

	Your expenses
4. _____	\$ _____
4a. Real estate taxes	\$ _____
4b. Property, homeowner's, or renter's insurance	\$ _____
4c. Home maintenance, repair, and upkeep expenses	\$ _____
4d. Homeowner's association or condominium dues	\$ _____

If not included in line 4:

- 4a. Real estate taxes
- 4b. Property, homeowner's, or renter's insurance
- 4c. Home maintenance, repair, and upkeep expenses
- 4d. Homeowner's association or condominium dues

Your expenses

- | | | |
|--|------|----------|
| 5. Additional mortgage payments for your residence , such as home equity loans | 5. | \$ _____ |
| 6. Utilities: | | |
| 6a. Electricity, heat, natural gas | 6a. | \$ _____ |
| 6b. Water, sewer, garbage collection | 6b. | \$ _____ |
| 6c. Telephone, cell phone, Internet, satellite, and cable services | 6c. | \$ _____ |
| 6d. Other. Specify: _____ | 6d. | \$ _____ |
| 7. Food and housekeeping supplies | 7. | \$ _____ |
| 8. Childcare and children's education costs | 8. | \$ _____ |
| 9. Clothing, laundry, and dry cleaning | 9. | \$ _____ |
| 10. Personal care products and services | 10. | \$ _____ |
| 11. Medical and dental expenses | 11. | \$ _____ |
| 12. Transportation. Include gas, maintenance, bus or train fare.
Do not include car payments. | 12. | \$ _____ |
| 13. Entertainment, clubs, recreation, newspapers, magazines, and books | 13. | \$ _____ |
| 14. Charitable contributions and religious donations | 14. | \$ _____ |
| 15. Insurance.
Do not include insurance deducted from your pay or included in lines 4 or 20. | | |
| 15a. Life insurance | 15a. | \$ _____ |
| 15b. Health insurance | 15b. | \$ _____ |
| 15c. Vehicle insurance | 15c. | \$ _____ |
| 15d. Other insurance. Specify: _____ | 15d. | \$ _____ |
| 16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20.
Specify: _____ | 16. | \$ _____ |
| 17. Installment or lease payments: | | |
| 17a. Car payments for Vehicle 1 | 17a. | \$ _____ |
| 17b. Car payments for Vehicle 2 | 17b. | \$ _____ |
| 17c. Other. Specify: _____ | 17c. | \$ _____ |
| 17d. Other. Specify: _____ | 17d. | \$ _____ |
| 18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 106I). | 18. | \$ _____ |
| 19. Other payments you make to support others who do not live with you.
Specify: _____ | 19. | \$ _____ |
| 20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income. | | |
| 20a. Mortgages on other property | 20a. | \$ _____ |
| 20b. Real estate taxes | 20b. | \$ _____ |
| 20c. Property, homeowner's, or renter's insurance | 20c. | \$ _____ |
| 20d. Maintenance, repair, and upkeep expenses | 20d. | \$ _____ |
| 20e. Homeowner's association or condominium dues | 20e. | \$ _____ |

21. **Other.** Specify: _____

21. **+\$** _____

22. **Calculate your monthly expenses.**

22a. Add lines 4 through 21.

22b. Copy line 22 (monthly expenses for Debtor 2), if any, from Official Form 106J-2

22c. Add line 22a and 22b. The result is your monthly expenses.

22.

\$	
\$	
\$	

23. **Calculate your monthly net income.**

23a. Copy line 12 (*your combined monthly income*) from *Schedule I*.

23a. \$ _____

23b. Copy your monthly expenses from line 22 above.

23b. - \$ _____

23c. Subtract your monthly expenses from your monthly income.

The result is your *monthly net income*.

23c.

\$	
----	--

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

No.

Yes.

Explain here:

Fill in this information to identify your case:

Debtor 1 _____
 First Name Middle Name Last Name

Debtor 2 _____
 (Spouse, if filing) First Name Middle Name Last Name

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

Case number _____
 (if known)

Check if this is:

- An amended filing
- A supplement showing post-petition chapter 13 expenses as of the following date:

 MM / DD / YYYY

Official Form 106J-2

Schedule J-2: Expenses for Separate Household of Debtor 2

12/15

Use this form for Debtor 2's separate household expenses ONLY IF Debtor 1 and Debtor 2 maintain separate households. If Debtor 1 and Debtor 2 have one or more dependents in common, list the dependents on both Schedule J and this form. Answer the questions on this form only with respect to expenses for Debtor 2 that are not reported on Schedule J. Be as complete and accurate as possible. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Your Household

1. Do you and Debtor 1 maintain separate households?

- No. Do not complete this form.
- Yes

2. Do you have dependents?

Do not list Debtor 1 but list all other dependents of Debtor 2 regardless of whether listed as a dependent of Debtor 1 on Schedule J.

Only list dependents

Do not state the dependents' names.

<input type="checkbox"/> No	<input type="checkbox"/> Yes. Fill out this information for each dependent.....	Dependent's relationship to Debtor 2:	Dependent's age	Does dependent live with you?
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

3. Do your expenses include expenses of people other than yourself, your dependents, and Debtor 1?

- No
- Yes

Part 2: Estimate Your Ongoing Monthly Expenses

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on Schedule I: Your Income (Official Form 106I.)

	Your expenses
4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.	4. \$ _____
If not included in line 4:	
4a. Real estate taxes	4a. \$ _____
4b. Property, homeowner's, or renter's insurance	4b. \$ _____
4c. Home maintenance, repair, and upkeep expenses	4c. \$ _____
4d. Homeowner's association or condominium dues	4d. \$ _____

Your expenses

5. Additional mortgage payments for your residence, such as home equity loans

5. \$

6. Utilities:

6a. Electricity, heat, natural gas

6a. \$

6b. Water, sewer, garbage collection

6b. \$

6c. Telephone, cell phone, Internet, satellite, and cable services

6c. \$

6d. Other. Specify:

6d. \$

7. Food and housekeeping supplies

7. \$

8. Childcare and children's education costs

8. \$

9. Clothing, laundry, and dry cleaning

9. \$

10. Personal care products and services

10. \$

11. Medical and dental expenses

11. \$

12. Transportation. Include gas, maintenance, bus or train fare. Do not include car payments.

12. \$

13. Entertainment, clubs, recreation, newspapers, magazines, and books

13. \$

14. Charitable contributions and religious donations

14. \$

15. Insurance.

Do not include insurance deducted from your pay or included in lines 4 or 20.

15a. Life insurance

15a. \$

15b. Health insurance

15b. \$

15c. Vehicle insurance

15c. \$

15d. Other insurance. Specify:

15d. \$

16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20. Specify:

16. \$

17. Installment or lease payments:

17a. Car payments for Vehicle 1

17a. \$

17b. Car payments for Vehicle 2

17b. \$

17c. Other. Specify:

17c. \$

17d. Other. Specify:

17d. \$

18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 106I).

18. \$

19. Other payments you make to support others who do not live with you.

Specify:

19. \$

20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.

20a. Mortgages on other property

20a. \$

20b. Real estate taxes

20b. \$

20c. Property, homeowner's, or renter's insurance

20c. \$

20d. Maintenance, repair, and upkeep expenses

20d. \$

20e. Homeowner's association or condominium dues

20e. \$

21. **Other.** Specify: _____

21. **+\$** _____

22. **Your monthly expenses.** Add lines 5 through 21.
The result is the monthly expenses of Debtor 2. Copy the result to line 22b of Schedule J to calculate the total expenses for Debtor 1 and Debtor 2.

22.

\$ _____

23. Line not used on this form.

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

- No.
- Yes.

Explain here:

Committee Note

Schedule J: Your Expenses (Official Form 106J), formerly Official Form 6J, has been revised to include references to new *Schedule J-2: Expenses for Separate Household of Debtor 2* (Official Form 106J-2) at line 1 and new line 22b. The revisions clarify how to calculate monthly net income in joint cases where Debtor 1 and Debtor 2 maintain separate households. Line 22b is added so Schedule J and Schedule J-2 are easily coordinated. Schedule J is also renumbered to conform to the three digit numbering system that was developed for official bankruptcy forms as part of the Forms Modernization Project.

Schedule J-2 is new. It is used to report the monthly expenses of Debtor 2 in a joint debtor case only if Debtor 1 and Debtor 2 maintain separate households.

Fill in this information to identify the case:

United States Bankruptcy Court for the:

_____ District of _____
(State)

Case number (if known): _____ Chapter _____

Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name

2. All other names debtor used in the last 8 years

Include any assumed names, trade names and *doing business* as names

3. Debtor's federal Employer Identification Number (EIN)

_____ - _____

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

Number Street _____

Number Street _____

City State ZIP Code _____

P.O. Box _____

City State ZIP Code _____

County _____

Location of principal assets, if different from principal place of business

Number Street _____

City State ZIP Code _____

5. Debtor's website (URL)

6. Type of debtor

- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
- Partnership (excluding LLP)
- Other. Specify: _____

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. §101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. §781(3))
- None of the above

B. Check all that apply:

- Tax-exempt entity (as described in 26 U.S.C. §501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 6-digit code that best describes debtor. See www.naics.com/search.htm.

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
- Chapter 9

Chapter 11. Check all that apply:

- Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every 3 years after that).
- The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- A plan is being filed with this petition.
- Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A) with this form.
- The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

No

Yes. District _____ When _____ Case number _____
MM / DD / YYYY

If more than 2 cases, attach a separate list.

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- No
Yes. Debtor Relationship
District When MM / DD / YYYY
Case number, if known

List all cases. If more than 1, attach a separate list.

11. Why is venue proper in this district?

- Check all that apply:
Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- No
Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety. What is the hazard?
It needs to be physically secured or protected from the weather.
It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
Other

Where is the property?

Number Street
City State ZIP Code

Is the property insured?

- No
Yes. Insurance agency
Contact name
Phone

Statistical and administrative information

13. Debtor's estimation of available funds

- Check one:
Funds will be available for distribution to unsecured creditors.
After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

- 1-49 1,000-5,000 25,001-50,000
50-99 5,001-10,000 50,001-100,000
100-199 10,001-25,000 More than 100,000
200-999

15. Estimated assets

- \$0-\$50,000
- \$50,001-\$100,000
- \$100,001-\$500,000
- \$500,001-\$1 million
- \$1,000,001-\$10 million
- \$10,000,001-\$50 million
- \$50,000,001-\$100 million
- \$100,000,001-\$500 million
- \$500,000,001-\$1 billion
- \$1,000,000,001-\$10 billion
- \$10,000,000,001-\$50 billion
- More than \$50 billion

16. Estimated liabilities

- \$0-\$50,000
- \$50,001-\$100,000
- \$100,001-\$500,000
- \$500,001-\$1 million
- \$1,000,001-\$10 million
- \$10,000,001-\$50 million
- \$50,000,001-\$100 million
- \$100,000,001-\$500 million
- \$500,000,001-\$1 billion
- \$1,000,000,001-\$10 billion
- \$10,000,000,001-\$50 billion
- More than \$50 billion

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
MM / DD / YYYY

X

Signature of authorized representative of debtor

Printed name

Title

18. Signature of attorney

X

Signature of attorney for debtor

Date _____
MM / DD / YYYY

Printed name

Firm name

Number Street

City State ZIP Code

Contact phone

Email address

Bar number

State

Committee Note

Official Form 201, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*, replaces Official Form 1, *Voluntary Petition*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 201 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Official Form 201 has been substantially reformatted and reorganized. References to Exhibits B, C, and D, and the exhibits themselves, have been eliminated because the requested information is now asked in the form or is not applicable to non-individual debtors. Official Form 201A, *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11*, has replaced Exhibit A. The debtor is instructed to file Official Form 201A if the debtor is filing under chapter 11 and is required to file periodic reports with the Securities and Exchange Commission. A checkbox has been added to the form to indicate whether it is an amended filing.

In Question 2, *All other names debtor used in the last 8 years*, instructions pertaining only to individuals have been deleted, and an instruction to include *doing business as* names and assumed names has been added. In Question 3, *Debtor's federal Employee Identification Number (EIN)*, references to social security numbers and individual taxpayer I.D. numbers have been deleted. In Question 4, *Debtor's address*, the order of listing the various addresses for the debtor has been rearranged, and an address for the location of principal assets is required if different from the principal place of business. Also, the form has been revised to include a space for listing the debtor's website in Question 5.

In Question 6, *Type of Debtor*, options pertaining only to individual debtors have been deleted, and an instruction that the "partnership" option does not include LLPs has been added. Question 7, *Describe debtor's business*, is revised to include a statutory citation for each business type, to add an option for "none of the above," and to delete the option for "other." A new instruction requires the debtor to indicate if the debtor is an investment company, including a hedge fund or pooled investment vehicle; an investment advisor; or a tax exempt entity. The definition of "tax exempt entity" has been removed and replaced with a statutory citation. Additionally, an instruction has been added to require the debtor to list its North American Industry Classification System 6-digit code. A hyperlink is provided for information on finding the correct code.

In Question 8, *Under which chapter of the Bankruptcy Code is the debtor filing*, several separate boxes have been combined, and the options for Chapter 13 and Chapter 15 have been deleted. More detailed options have been added for Chapter 11. The question regarding the nature of the debtor's debts has been removed.

Question 9, *Were prior bankruptcy cases filed by or against the debtor within the last 8 years*, has been revised

to instruct the debtor to include prior bankruptcy cases filed against the debtor and to list the district rather than location of the prior filings. In Question 10, *Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor*, the reference to spouse and the requirement to list the judge in any other cases have been removed.

Question 11, *Why is venue proper in this district*, has been revised to delete references that pertain only to individuals.

Question 12, *Does the debtor own or have possession of any real property or personal property that needs immediate attention*, replaces Exhibit C from Official Form 1. The category of “property that needs immediate attention” has been added, as well as options to indicate why the property needs immediate attention. Additionally, the form has been revised to require the debtor to list the location of the property and whether or not the property is insured and, if so, the insurance details.

Statistical and administrative information has been moved to immediately above the signature line, and the reference to exempt property has been removed. The maximum values for “Estimated Assets” and “Estimated Liabilities” have been increased from “more than \$1 billion” to “more than \$50 billion.” *Request for Relief, Declaration, and Signatures* has been reformatted and the signature lines for individual debtors and non-attorney bankruptcy petition preparers have been removed.

Fill in this information to identify the case and this filing:

Debtor Name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors****12/15**

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. **Bankruptcy Rules 1008 and 9011.**

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets—Real and Personal Property* (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
- Schedule H: Codebtors* (Official Form 206H)
- A Summary of Assets and Liabilities for Non-Individuals* (Official Form 206—Summary)
- Amended Schedule _____
- Other document that requires a declaration _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
 MM / DD / YYYY

X

 Signature of individual signing on behalf of debtor

 Printed name

 Position or relationship to debtor

Committee Note

Official Form 202, *Declaration Under Penalty of Perjury for Non-Individual Debtors*, replaces Official Form 2, *Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership*, and the section of Official Form 6 Declaration, *Declaration Concerning Debtor's Schedules* containing a corporation's or partnership's declaration. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 202 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

Official Form 202 has been substantially reformatted and reorganized with elements from both Official Form 2 and the section of Official Form 6 for a corporation or partnership. Instructions have been added, along with warning language regarding bankruptcy fraud. Checkboxes are provided so the declaration will indicate the schedules included with the declaration or, if the declaration accompanies another document, a description of the attached document. The phrase "to the best of my information and belief" has been deleted from the declaration in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008. The form, however, includes a statement that the person signing the declaration has examined the information in the documents subject to the declaration and has "a reasonable belief that the information is true and correct." Finally, the person signing the declaration must indicate his or her position or relationship to the debtor.

Fill in this information to identify the case:

Debtor name _____

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

Case number (If known): _____

Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1							
2							
3							
4							
5							
6							
7							
8							

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							

Committee Note

Official Form 204, *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders*, replaces Official Form 4, *List of Creditors Holding 20 Largest Unsecured Claims*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 204 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Official Form 204 has been reformatted and reorganized. The instructions have been shortened and revised to include a full cite to the definition of “insider” and a revised explanation of when to include a secured creditor’s unsecured claim. The warning regarding the disclosure of a minor child’s name has been deleted as a caution has been added to the general instructions for all forms regarding listing a minor child’s name.

The heading of the second column of the form has been revised to require the “name, telephone number, and email address of creditor contact,” eliminating the need to provide a complete mailing address for the creditor contact.

Additional examples of “nature of claim” have been provided in the third column. In the fourth column, “subject to setoff” has been removed as an option.

The fifth column has been revised to include three separate potential entries to be used to list the value of the unsecured claim: the total claim, if partially secured; the deduction for value of collateral or setoff; and unsecured claim. The new instructions for the fifth column contain an explanation that if a claim is a fully unsecured claim, only the final sub-column needs to be completed, and that all of the columns must be completed if a claim is partially secured.

The signature line and the instruction to include a declaration have been deleted from the form.

Fill in this information to identify the case:

United States Bankruptcy Court for the:

_____ District of _____
(State)

Case number *(if known)*: _____ Chapter _____

Check if this is an amended filing

Official Form 205

Involuntary Petition Against a Non-Individual

12/15

Use this form to begin a bankruptcy case against a non-individual you allege to be a debtor subject to an involuntary case. If you want to begin a case against an individual, use the *Involuntary Petition Against an Individual* (Official Form 105). Be as complete and accurate as possible. If more space is needed, attach any additional sheets to this form. On the top of any additional pages, write debtor's name and case number (if known).

Part 1: Identify the Chapter of the Bankruptcy Code Under Which Petition Is Filed

1. Chapter of the Bankruptcy Code

Check one:

- Chapter 7
- Chapter 11

Part 2: Identify the Debtor

2. Debtor's name _____

3. Other names you know the debtor has used in the last 8 years

Include any assumed names, trade names, or *doing business as* names.

4. Debtor's federal Employer Identification Number (EIN)

Unknown

____ - ____ - _____
 EIN

5. Debtor's address

Principal place of business

Number Street _____

City State ZIP Code _____

County _____

Mailing address, if different

Number Street _____

P.O. Box _____

City State ZIP Code _____

Location of principal assets, if different from principal place of business

Number Street _____

City State ZIP Code _____

6. Debtor's website (URL) _____

7. Type of debtor

- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
- Partnership (excluding LLP)
- Other type of debtor. Specify: _____

8. Type of debtor's business

Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. §101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. §781(3))
- None of the types of business listed.
- Unknown type of business.

9. To the best of your knowledge, are any bankruptcy cases pending by or against any partner or affiliate of this debtor?

- No
- Yes. Debtor _____ Relationship _____
District _____ Date filed _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship _____
District _____ Date filed _____ Case number, if known _____
MM / DD / YYYY

Part 3: Report About the Case

10. Venue

Check one:

- Over the last 180 days before the filing of this bankruptcy, the debtor had a domicile, principal place of business, or principal assets in this district longer than in any other district.
- A bankruptcy case concerning debtor's affiliates, general partner, or partnership is pending in this district.

11. Allegations

Each petitioner is eligible to file this petition under 11 U.S.C. § 303(b).
The debtor may be the subject of an involuntary case under 11 U.S.C. § 303(a).

At least one box must be checked:

- The debtor is generally not paying its debts as they become due, unless they are the subject of a bona fide dispute as to liability or amount.
- Within 120 days before the filing of this petition, a custodian, other than a trustee, receiver, or an agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

12. Has there been a transfer of any claim against the debtor by or to any petitioner?

- No
- Yes. Attach all documents that evidence the transfer and any statements required under Bankruptcy Rule 1003(a).

13. Each petitioner's claim

Name of petitioner

Nature of petitioner's claim

Amount of the claim above the value of any lien

		\$	
		\$	
		\$	
Total of petitioners' claims		\$	

If more space is needed to list petitioners, attach additional sheets. Write the alleged debtor's name and the case number, if known, at the top of each sheet. Following the format of this form, set out the information required in Parts 3 and 4 of the form for each additional petitioning creditor, the petitioner's claim, the petitioner's representative, and the petitioner's attorney. Include the statement under penalty of perjury set out in Part 4 of the form, followed by each additional petitioner's (or representative's) signature, along with the signature of the petitioner's attorney.

Part 4: Request for Relief

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Petitioners request that an order for relief be entered against the debtor under the chapter of 11 U.S.C. specified in this petition. If a petitioning creditor is a corporation, attach the corporate ownership statement required by Bankruptcy Rule 1010(b). If any petitioner is a foreign representative appointed in a foreign proceeding, attach a certified copy of the order of the court granting recognition.

I have examined the information in this document and have a reasonable belief that the information is true and correct.

Petitioners or Petitioners' Representative

Name and mailing address of petitioner

Name

Number Street

City State ZIP Code

Name and mailing address of petitioner's representative, if any

Name

Number Street

City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
MM / DD / YYYY

X _____
Signature of petitioner or representative, including representative's title

Attorneys

Printed name

Firm name, if any

Number Street

City State ZIP Code

Contact phone _____ Email _____

Bar number _____

State _____

X _____
Signature of attorney

Date signed _____
MM / DD / YYYY

Name and mailing address of petitioner

Name

Number Street

City State ZIP Code

Name and mailing address of petitioner's representative, if any

Name

Number Street

City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
MM / DD / YYYY

X _____
Signature of petitioner or representative, including representative's title

Printed name

Firm name, if any

Number Street

City State ZIP Code

Contact phone _____ Email _____

Bar number _____

State _____

X _____
Signature of attorney

Date signed _____
MM / DD / YYYY

Name and mailing address of petitioner

Name

Number Street

City State ZIP Code

Name and mailing address of petitioner's representative, if any

Name

Number Street

City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
MM / DD / YYYY

X _____
Signature of petitioner or representative, including representative's title

Printed name

Firm name, if any

Number Street

City State ZIP Code

Contact phone _____ Email _____

Bar number _____

State _____

X _____
Signature of attorney

Date signed _____
MM / DD / YYYY

Committee Note

Official Form 205, *Involuntary Petition Against a Non-Individual*, replaces Official Form 5, *Involuntary Petition*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 205 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Part 1, *Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*, has been moved to the beginning of the form.

In Part 2, *Identify the Debtor*, instructions pertaining only to individuals have been deleted, and an instruction to include doing-business-as names and assumed names has been added. The references to social security numbers and individual taxpayer I.D. numbers have been deleted. The order of listing the various addresses for the debtor have been rearranged in Line 5, and an address for the location of principal assets is required if different from the principal place of business.

The form has been revised to include a space for listing the debtor's website in Line 6.

Also in Part 2, the options for type of debtor that pertained only to individuals have been deleted, and an instruction that the "partnership" option does not include LLPs has been added. The options regarding the type of debtor's business have been revised to include a statutory citation for each business type, to add an option for "none of the above," and to delete the option for "other." The question regarding pending bankruptcy cases has been revised to remove the reference to spouse and the requirement to list the judge in any other cases.

In Part 3, *Report About the Case*, the question regarding venue has been revised in Line 10 to read "[o]ver the past 180 days before the filing of this bankruptcy, the debtor had a domicile, principal place or business, or principal assets in this district longer than in any other district." In the question for Allegations, "each" has been added to the first allegation, the exact citation to the Bankruptcy Code has been provided for the second allegation, and checkboxes have been provided for the last allegation. Also, in Line 12, petitioners must check "yes" or "no" to answer whether there has been any transfer of any claim against the debtor by or to a petitioner.

The information regarding the petitioner's claims has been moved to Part 3, and the portion listing the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

Part 4, *Request Relief*, has been amended to include a warning about making a false statement, and the declaration under penalty of perjury has been revised in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008. A statement has been added that each petitioner, or the petitioner's representative, has reviewed the information in the petition and has "a reasonable belief that the information is true and correct." A requirement has

been added for each petitioner's mailing address. Also, petitioners' attorneys must provide their email addresses, bar number, and state of bar membership.

Fill in this information to identify the case:

Debtor name _____

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

Case number (if known): _____

Check if this is an amended filing

Official Form 206Sum

Summary of Assets and Liabilities for Non-Individuals

12/15

Part 1: Summary of Assets

1. **Schedule A/B: Assets—Real and Personal Property** (Official Form 206A/B)

1a. **Real property:**

Copy line 88 from *Schedule A/B*

\$ _____

1b. **Total personal property:**

Copy line 91A from *Schedule A/B*

\$ _____

1c. **Total of all property:**

Copy line 92 from *Schedule A/B*

\$ _____

Part 2: Summary of Liabilities

2. **Schedule D: Creditors Who Hold Claims Secured by Property** (Official Form 206D)

Copy the total dollar amount listed in Column A, *Amount of claim*, at the bottom of page 1 of *Schedule D*

\$ _____

3. **Schedule E/F: Creditors Who Have Unsecured Claims** (Official Form 206E/F)

3a. **Total claim amounts of priority unsecured claims:**

Copy the total claims from Part 1 from line 6a of *Schedule E/F*

\$ _____

3b. **Total amount of claims of non-priority amount of unsecured claims:**

Copy the total of the amount of claims from Part 2 from line 6b of *Schedule E/F*

+ \$ _____

4. **Total liabilities**

Lines 2 + 3a + 3b

\$ _____

Fill in this information to identify the case:

Debtor name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____

Check if this is an amended filing

Official Form 206A/B

Schedule A/B: Assets — Real and Personal Property

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit. Also include assets and properties which have no book value, such as fully depreciated assets or assets that were not capitalized. In Schedule A/B, list any executory contracts or unexpired leases with a net value. Also list them on *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*.

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known). Also identify the form and line number to which the additional information applies. If an additional sheet is attached, include the amounts from the attachment in the total for the pertinent part.

For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category. List each asset only once. In valuing the debtor's interest, do not deduct the value of secured claims. See the instructions to understand the terms used in this form.

Part 1: Cash and cash equivalents

1. Does the debtor have any cash or cash equivalents?

- No. Go to Part 2.
- Yes. Fill in the information below.

All cash or cash equivalents owned or controlled by the debtor

Current value of debtor's interest

2. Cash on hand

\$ _____

3. Checking, savings, money market, or financial brokerage accounts (Identify all)

Name of institution (bank or brokerage firm)	Type of account	Last 4 digits of account number	
3.1. _____	_____	____ _	\$ _____
3.2. _____	_____	____ _	\$ _____

4. Other cash equivalents (Identify all)

4.1. _____	\$ _____
4.2. _____	\$ _____

5. Total of Part 1

Add lines 2 through 4 (including amounts on any additional sheets). Copy the total to line 80.

\$ _____

Part 2: Deposits and prepayments

6. Does the debtor have any deposits or prepayments?

- No. Go to Part 3.
- Yes. Fill in the information below.

Current value of debtor's interest

7. Deposits, including security deposits and utility deposits

Description, including name of holder of deposit	
7.1. _____	\$ _____
7.2. _____	\$ _____

Part 5: Inventory, excluding agriculture assets

18. Does the debtor own any inventory (excluding agriculture assets)?

- No. Go to Part 6.
- Yes. Fill in the information below.

General description	Date of the last physical inventory	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
19. Raw materials _____	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
20. Work in progress _____	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
21. Finished goods, including goods held for resale _____	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
22. Other inventory or supplies _____	_____ MM / DD / YYYY	\$ _____	_____	\$ _____

23. Total of Part 5

Add lines 19 through 22. Copy the total to line 84.

\$ _____

24. Is any of the property listed in Part 5 perishable?

- No
- Yes. Is any of the property listed in Part 5 subject to or part of a possible PACA claim?
 - No
 - Yes

25. Has any of the property listed in Part 5 been purchased within 20 days before the bankruptcy was filed?

- No
- Yes. Book value _____ Valuation method _____ Current value _____

26. Has any of the property listed in Part 5 been appraised by a professional within the last year?

- No
- Yes

Part 6: Agricultural assets (other than titled motor vehicles and land)

27. Does the debtor own any agricultural assets (other than titled motor vehicles and land)?

- No. Go to Part 7.
- Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
28. Crops—either planted or harvested _____	\$ _____	_____	\$ _____
29. Farm animals <i>Examples:</i> Livestock, poultry, farm-raised fish _____	\$ _____	_____	\$ _____

30. **Farm machinery and equipment** (Other than titled motor vehicles)
 _____ \$ _____ \$ _____
31. **Farm and fishing supplies, chemicals, and feed**
 _____ \$ _____ \$ _____
32. **Other farm-related property not already listed in Part 5.**
 _____ \$ _____ \$ _____

33. **Total of Part 6.** Add lines 28 through 32. Copy the total to line 85. \$ _____

34. **Is the debtor a member of an agricultural cooperative?**
- No
- Yes. Is any of the debtor's property stored at the cooperative?
- No
- Yes

35. **Has any of the property listed in Part 6 been purchased within 20 days before the bankruptcy was filed?**
- No
- Yes. Book value \$ _____ Valuation method _____ Current value \$ _____

36. **Is a depreciation schedule available for any of the property listed in Part 6?**
- No
- Yes

37. **Has any of the property listed in Part 6 been appraised by a professional within the last year?**
- No
- Yes

Part 7: Office furniture, fixtures, and equipment; and collectibles

38. **Does the debtor own any office furniture, fixtures, equipment, or collectibles?**
- No. Go to Part 8.
- Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
39. Office furniture _____	\$ _____	_____	\$ _____
40. Office fixtures _____	\$ _____	_____	\$ _____
41. Office equipment, including all computer equipment and communication systems equipment and software _____	\$ _____	_____	\$ _____
42. Collectibles <i>Examples:</i> Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; china and crystal; stamp, coin, or baseball card collections; other collections, memorabilia, or collectibles			
42.1 _____	\$ _____	_____	\$ _____
42.2 _____	\$ _____	_____	\$ _____
42.3 _____	\$ _____	_____	\$ _____

43. **Total of Part 7.** Add lines 39 through 42. Copy the total to line 86. \$ _____

44. Is a depreciation schedule available for any of the property listed in Part 7?

- No
- Yes

45. Has any of the property listed in Part 7 been appraised by a professional within the last year?

- No
- Yes

Part 8: Machinery, equipment, and vehicles

46. Does the debtor own any machinery, equipment, or vehicles?

- No. Go to Part 9.
- Yes. Fill in the information below.

General description	Net book value of debtor's interest	Valuation method used for current value	Current value of debtor's interest
Include year, make, model, and identification numbers (i.e., VIN, HIN, or N-number)	(Where available)		
47. Automobiles, vans, trucks, motorcycles, trailers, and titled farm vehicles			
47.1 _____	\$ _____	_____	\$ _____
47.2 _____	\$ _____	_____	\$ _____
47.3 _____	\$ _____	_____	\$ _____
47.4 _____	\$ _____	_____	\$ _____
48. Watercraft, trailers, motors, and related accessories Examples: Boats, trailers, motors, floating homes, personal watercraft, and fishing vessels			
48.1 _____	\$ _____	_____	\$ _____
48.2 _____	\$ _____	_____	\$ _____
49. Aircraft and accessories			
49.1 _____	\$ _____	_____	\$ _____
49.2 _____	\$ _____	_____	\$ _____
50. Other machinery, fixtures, and equipment (excluding farm machinery and equipment)			
_____	\$ _____	_____	\$ _____

51. **Total of Part 8.**

Add lines 47 through 50. Copy the total to line 87.

\$ _____

52. Is a depreciation schedule available for any of the property listed in Part 8?

- No
- Yes

53. Has any of the property listed in Part 8 been appraised by a professional within the last year?

- No
- Yes

Part 9: Real property

54. Does the debtor own any real property?

- No. Go to Part 10.
 Yes. Fill in the information below.

55. Any building, other improved real estate, or land which the debtor owns or in which the debtor has an interest

Description and location of property Include street address or other description such as Assessor Parcel Number (APN), and type of property (for example, acreage, factory, warehouse, apartment or office building), if available.	Nature and extent of debtor's interest in property	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
55.1 _____	_____	\$ _____	_____	\$ _____
55.2 _____	_____	\$ _____	_____	\$ _____
55.3 _____	_____	\$ _____	_____	\$ _____
55.4 _____	_____	\$ _____	_____	\$ _____
55.5 _____	_____	\$ _____	_____	\$ _____
55.6 _____	_____	\$ _____	_____	\$ _____

56. Total of Part 9.

Add the current value on lines 55.1 through 55.6 and entries from any additional sheets. Copy the total to line 88.

\$ _____

57. Is a depreciation schedule available for any of the property listed in Part 9?

- No
 Yes

58. Has any of the property listed in Part 9 been appraised by a professional within the last year?

- No
 Yes

Part 10: Intangibles and Intellectual Property

59. Does the debtor have any interests in intangibles or intellectual property?

- No. Go to Part 11.
 Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
60. Patents, copyrights, trademarks, and trade secrets _____	\$ _____	_____	\$ _____
61. Internet domain names and websites _____	\$ _____	_____	\$ _____
62. Licenses, franchises, and royalties _____	\$ _____	_____	\$ _____
63. Customer lists, mailing lists, or other compilations _____	\$ _____	_____	\$ _____
64. Other intangibles, or intellectual property _____	\$ _____	_____	\$ _____
65. Goodwill _____	\$ _____	_____	\$ _____

66. Total of Part 10.

Add lines 60 through 65. Copy the total to line 89.

\$ _____

67. Do your lists or records include personally identifiable information of customers (as defined in 11 U.S.C. §§ 101(41A) and 107)?

- No
- Yes

68. Is there an amortization or other similar schedule available for any of the property listed in Part 10?

- No
- Yes

69. Has any of the property listed in Part 10 been appraised by a professional within the last year?

- No
- Yes

Part 11: All other assets

70. Does the debtor own any other assets that have not yet been reported on this form?

- No. Go to Part 12.
- Yes. Fill in the information below.

Current value of debtor's interest

71. Notes receivable

Description (include name of obligor)

_____ $\frac{\text{Total face amount}}{\text{Total face amount}} - \frac{\text{doubtful or uncollectible amount}}{\text{doubtful or uncollectible amount}} = \rightarrow$ \$ _____

72. Tax refunds and unused net operating losses (NOLs)

Describe (for example, federal, state, local)

 _____ Tax year _____ \$ _____
 _____ Tax year _____ \$ _____
 _____ Tax year _____ \$ _____

73. Interests in insurance policies or annuities

_____ \$ _____

74. Causes of action against third parties (whether or not a lawsuit has been filed)

_____ \$ _____

Nature of claim _____

Amount requested \$ _____

75. Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off claims

_____ \$ _____

Nature of claim _____

Amount requested \$ _____

76. Trusts, equitable or future interests in property

_____ \$ _____

77. Other property of any kind not already listed *Examples: Season tickets, country club membership*

_____ \$ _____
 _____ \$ _____

78. Total of Part 11.

Add lines 71 through 77. Copy the total to line 90.

\$ _____

79. Has any of the property listed in Part 11 been appraised by a professional within the last year?

- No
- Yes

Part 12: Summary

In Part 12 copy all of the totals from the earlier parts of the form.

Type of property	Current value of personal property	Current value of real property	
80. Cash, cash equivalents, and financial assets. <i>Copy line 5, Part 1.</i>	\$ _____		
81. Deposits and prepayments. <i>Copy line 9, Part 2.</i>	\$ _____		
82. Accounts receivable. <i>Copy line 12, Part 3.</i>	\$ _____		
83. Investments. <i>Copy line 17, Part 4.</i>	\$ _____		
84. Inventory. <i>Copy line 23, Part 5.</i>	\$ _____		
85. Agricultural assets. <i>Copy line 33, Part 6.</i>	\$ _____		
86. Office furniture, fixtures, and equipment, and collectibles. <i>Copy line 43, Part 7.</i>	\$ _____		
87. Machinery, equipment, and vehicles. <i>Copy line 51, Part 8.</i>	\$ _____		
88. Real property. <i>Copy line 56, Part 9.</i> →		\$ _____	
89. Intangibles and intellectual property. <i>Copy line 66, Part 10.</i>	\$ _____		
90. All other assets. <i>Copy line 78, Part 11.</i>	+ \$ _____		
91. Total. Add lines 80 through 90 for each column..... 91a.	\$ _____	+ 91b. \$ _____	
92. Total of all property on Schedule A/B. Lines 91a + 91b = 92.			\$ _____

Fill in this information to identify the case:

Debtor name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____

Check if this is an amended filing

Official Form 206D

Schedule D: Creditors Who Have Claims Secured by Property

12/15

Be as complete and accurate as possible.

1. Do any creditors have claims secured by debtor's property?

- No. Check this box and submit page 1 of this form to the court with debtor's other schedules. Debtor has nothing else to report on this form.
- Yes. Fill in all of the information below.

Part 1: List Creditors Who Have Secured Claims

2. List in alphabetical order all creditors who have secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim.

Column A Amount of claim Do not deduct the value of lien.	Column B Value of debtor's property that secures this claim
---	--

2.1 Creditor's name

Describe debtor's property that is subject to a lien

_____ \$ _____ \$ _____

Creditor's mailing address

Describe the lien

Creditor's email address, if known

Is the creditor an insider or related party?

- No
- Yes

Date debt was incurred _____

Is anyone else liable on this claim?

- No
- Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

Last 4 digits of account number _____

Do multiple creditors have an interest in the same property?

- No
- Yes. Specify each creditor, including this creditor, and its relative priority.

As of the petition filing date, the claim is:

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

2.2 Creditor's name

Describe debtor's property that is subject to a lien

_____ \$ _____ \$ _____

Creditor's mailing address

Describe the lien

Creditor's email address, if known

Is the creditor an insider or related party?

- No
- Yes

Date debt was incurred _____

Is anyone else liable on this claim?

- No
- Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

Last 4 digits of account number _____

Do multiple creditors have an interest in the same property?

- No
- Yes. Have you already specified the relative priority?
 No. Specify each creditor, including this creditor, and its relative priority.

As of the petition filing date, the claim is:

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

- Yes. The relative priority of creditors is specified on lines _____

3. Total of the dollar amounts from Part 1, Column A, including the amounts from the Additional Page, if any.

\$ _____

Column A	Column B
Amount of claim Do not deduct the value of lien.	Value of debtor's property that secures this claim

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

<p>2. Creditor's name</p> <p>_____</p> <p>Creditor's mailing address</p> <p>_____</p> <p>_____</p> <p>Creditor's email address, if known</p> <p>_____</p> <p>Date debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Do multiple creditors have an interest in the same property?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Have you already specified the relative priority?</p> <p style="margin-left: 20px;"><input type="checkbox"/> No. Specify each creditor, including this creditor, and its relative priority.</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Yes. The relative priority of creditors is specified on lines _____</p>	<p>Describe debtor's property that is subject to a lien</p> <p>_____ \$ _____ \$ _____</p> <p>_____</p> <p>_____</p> <p>Describe the lien</p> <p>_____</p> <p>Is the creditor an insider or related party?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>Is anyone else liable on this claim?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H).</p> <p>As of the petition filing date, the claim is:</p> <p>Check all that apply.</p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p>
--	--

<p>2. Creditor's name</p> <p>_____</p> <p>Creditor's mailing address</p> <p>_____</p> <p>_____</p> <p>Creditor's email address, if known</p> <p>_____</p> <p>Date debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Do multiple creditors have an interest in the same property?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Have you already specified the relative priority?</p> <p style="margin-left: 20px;"><input type="checkbox"/> No. Specify each creditor, including this creditor, and its relative priority.</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Yes. The relative priority of creditors is specified on lines _____</p>	<p>Describe debtor's property that is subject to a lien</p> <p>_____ \$ _____ \$ _____</p> <p>_____</p> <p>_____</p> <p>Describe the lien</p> <p>_____</p> <p>Is the creditor an insider or related party?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>Is anyone else liable on this claim?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H).</p> <p>As of the petition filing date, the claim is:</p> <p>Check all that apply.</p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p>
--	--

Part 2: List Others to Be Notified for a Debt Already Listed in Part 1

List in alphabetical order any others who must be notified for a debt already listed in Part 1. Examples of entities that may be listed are collection agencies, assignees of claims listed above, and attorneys for secured creditors.

If no others need to be notified for the debts listed in Part 1, do not fill out or submit this page. If additional pages are needed, copy this page.

Name and address	On which line in Part 1 did you enter the related creditor?	Last 4 digits of account number for this entity
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____ _____	Line 2. __	__ - - - -
_____ _____	Line 2. __	__ - - - -

Fill in this information to identify the case:

Debtor _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number _____
 (If known)

Check if this is an amended filing

Official Form 206E/F

Schedule E/F: Creditors Who Have Unsecured Claims

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY unsecured claims and Part 2 for creditors with NONPRIORITY unsecured claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Assets - Real and Personal Property* (Official Form 206A/B) and on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G). Number the entries in Parts 1 and 2 in the boxes on the left. If more space is needed for Part 1 or Part 2, fill out and attach the Additional Page of that Part included in this form.

Part 1: List All Creditors with PRIORITY Unsecured Claims

1. Do any creditors have priority unsecured claims? (See 11 U.S.C. § 507).

- No. Go to Part 2.
- Yes. Go to line 2.

2. List in alphabetical order all creditors who have unsecured claims that are at least partially entitled to priority. If the debtor has more than 3 creditors with priority unsecured claims, fill out and attach the Additional Page of Part 1.

		Total claim	Priority amount
<p>2.1 Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <input type="checkbox"/> No <input type="checkbox"/> Yes 	\$ _____	\$ _____
<p>2.2 Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <input type="checkbox"/> No <input type="checkbox"/> Yes 	\$ _____	\$ _____
<p>2.3 Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <input type="checkbox"/> No <input type="checkbox"/> Yes 	\$ _____	\$ _____

Copy this page if more space is needed. Continue numbering the lines sequentially from the previous page. If no additional PRIORITY creditors exist, do not fill out or submit this page.

Total claim

Priority amount

2. Priority creditor's name and mailing address _____

Date or dates debt was incurred _____

Last 4 digits of account number _____

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)

As of the petition filing date, the claim is: \$ _____ \$ _____
 Check all that apply.
 Contingent
 Unliquidated
 Disputed
 Liquidated and neither contingent nor disputed

Basis for the claim: _____

Is the claim subject to offset?
 No
 Yes

2. Priority creditor's name and mailing address _____

Date or dates debt was incurred _____

Last 4 digits of account number _____

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)

As of the petition filing date, the claim is: \$ _____ \$ _____
 Check all that apply.
 Contingent
 Unliquidated
 Disputed
 Liquidated and neither contingent nor disputed

Basis for the claim: _____

Is the claim subject to offset?
 No
 Yes

2. Priority creditor's name and mailing address _____

Date or dates debt was incurred _____

Last 4 digits of account number _____

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)

As of the petition filing date, the claim is: \$ _____ \$ _____
 Check all that apply.
 Contingent
 Unliquidated
 Disputed
 Liquidated and neither contingent nor disputed

Basis for the claim: _____

Is the claim subject to offset?
 No
 Yes

2. Priority creditor's name and mailing address _____

Date or dates debt was incurred _____

Last 4 digits of account number _____

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)

As of the petition filing date, the claim is: \$ _____ \$ _____
 Check all that apply.
 Contingent
 Unliquidated
 Disputed
 Liquidated and neither contingent nor disputed

Basis for the claim: _____

Is the claim subject to offset?
 No
 Yes

Part 2: List All Creditors with NONPRIORITY Unsecured Claims

3. Do any creditors have unsecured claims not listed on Part 1 of this form or on Schedule G?

- No. Go to Part 3.
- Yes. Go to line 4.

4. List in alphabetical order all of the creditors with nonpriority unsecured claims. If the debtor has more than 4 creditors with nonpriority unsecured claims, fill out and attach the Additional Page of Part 2.

		Amount of claim
4.1	<p>Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p style="text-align: right;">\$ _____</p>
4.2	<p>Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p style="text-align: right;">\$ _____</p>
4.3	<p>Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p style="text-align: right;">\$ _____</p>
4.4	<p>Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p style="text-align: right;">\$ _____</p>
4.5	<p>Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> None of the above</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p style="text-align: right;">\$ _____</p>

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page. If no additional NONPRIORITY creditors exist, do not fill out or submit this page.

Amount of claim

<p>4.____ Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>	<p>\$ _____</p>
<p>4.____ Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>	<p>\$ _____</p>
<p>4.____ Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>	<p>\$ _____</p>
<p>4.____ Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>	<p>\$ _____</p>
<p>4.____ Nonpriority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p>	<p>As of the petition filing date, the claim is: <i>Check all that apply.</i></p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> Liquidated and neither contingent nor disputed</p> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>	<p>\$ _____</p>

Part 3:

List Others to Be Notified About Unsecured Claims

5. Does the debtor want to notify additional parties about the claims listed in Parts 1 and 2 or for some other reason?

Examples of entities that may be listed are collection agencies, assignors or assignees of claims listed above, and attorneys for unsecured creditors.

- No. If no others are to be notified of the debtor's unsecured debts, go to Part 4.
- Yes. Fill in the information below.

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any
5.1. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.2. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.3. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.4. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.1. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.5. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.6. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.7. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.8. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.9. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.10. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _
5.11. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ _ _ _

Part 3: Additional Page for Others to Be Notified About Unsecured Claims

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____
5. _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____	____ - ____ - ____ - ____

Part 4: Total Amounts of the Priority and Nonpriority Unsecured Claims

6. Add the amounts of priority and nonpriority unsecured claims.

Total of claim amounts

6a. Total claims from Part 1 6a. \$ _____

6b. Total claims from Part 2 6b. + \$ _____

6c. Total of Parts 1 and 2 6c. \$ _____
Lines 6a + 6b = 6c.

Fill in this information to identify the case:

Debtor name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____ Chapter _____

Check if this is an amended filing

Official Form 206G

Schedule G: Executory Contracts and Unexpired Leases

12/15

Be as complete and accurate as possible. If more space is needed, copy and attach the additional page, numbering the entries consecutively.

1. Does the debtor have any executory contracts or unexpired leases?

- No. Check this box and file this form with the court with the debtor's other schedules. There is nothing else to report on this form.
- Yes. Fill in all of the information below even if the contracts or leases are listed on *Schedule A/B: Assets - Real and Personal Property* (Official Form 206A/B).

2. List all contracts and unexpired leases

State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease

2.1	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.2	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.3	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.4	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.5	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____

Additional Page if Debtor Has More Executory Contracts or Unexpired Leases

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

List all contracts and unexpired leases	State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2. State what the contract or lease is for and the nature of the debtor's interest _____</p> <p>State the term remaining _____</p> <p>List the contract number of any government contract _____</p>	<p>_____</p> <p>_____</p> <p>_____</p>

Fill in this information to identify the case:

Debtor name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____

Check if this is an amended filing

Official Form 206H

Schedule H: Codebtors

12/15

Be as complete and accurate as possible. If more space is needed, copy the Additional Page, numbering the entries consecutively. Attach the Additional Page to this page.

1. Does the debtor have any codebtors?

- No. Check this box and submit this form to the court with the debtor's other schedules. Nothing else needs to be reported on this form.
- Yes

2. In Column 1, list as codebtors all of the people or entities who are also liable for any debts listed by the debtor in the schedules of creditors, Schedules D-G. Include all guarantors and co-obligors. In Column 2, identify the creditor to whom the debt is owed and each schedule on which the creditor is listed. If the codebtor is liable on a debt to more than one creditor, list each creditor separately in Column 2.

Column 1: Codebtor		Column 2: Creditor	
Name	Mailing address	Name	Check all schedules that apply:
2.1 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.2 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.3 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.4 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.5 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.6 _____	Street _____ _____ City _____ State _____ ZIP Code _____	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

Column 1: Codebtor		Column 2: Creditor	
Name	Mailing address	Name	Check all schedules that apply:
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.____ _____	_____ Street _____ _____ City State ZIP Code	_____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G

Committee Note

The schedules to be used in cases of non-individual debtors have been revised as part of the Forms Modernization Project, making them easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals eliminate questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records. The non-individual debtor schedules are also renumbered, starting with the number 206 and followed by the letter or name of the schedule to distinguish them from the versions to be used in individual cases. Each form includes a checkbox to indicate whether it is an amended filing.

Official Form 206Sum, *Summary of Assets and Liabilities for Non-Individuals*, replaces Official Form 6, *Summary of Schedules and Statistical Summary of Certain Liability and Related Data (28 U.S.C. § 159)*, in cases of non-individual debtors. The form is reformatted and updated with cross-references indicating the line numbers from specific schedules from which the summary information is to be gathered, and the Statistical Summary is deleted because it only applies to individual debtors. In addition, because most filings are now done electronically, the form no longer requires the debtor to indicate which schedules are attached or to state the number of sheets of paper used for the schedules.

Official Form 206A/B, Schedule A/B: Assets – Real and Personal Property, consolidates information about a non-individual debtor’s real and personal property into a single form and replaces Official Form 6A - *Real Property* and Official Form 6B - *Personal Property*, in cases of non-individual debtors. The layout and categories of property on Official Form 206A/B have changed. Instead of dividing property interests into two categories (real or personal property), the new form uses eleven categories of property types. For each part, the specific items are broken out and debtors are instructed to total the part and list the total on a specific line later in the form.

Part 1: *Cash and cash equivalents*, includes cash and cash equivalents and a shortened list of examples. All financial assets other than cash or cash equivalents are moved to Part 4: *Investments*. In the section to list checking, savings, money market, or financial brokerage accounts, debtors are instructed to include the name of the institution and the last 4-digits of any account number.

In Part 2: *Deposits and prepayments*, adds prepayments and examples. A requirement has been added to include the name of the holder of any deposit.

Part 3: *Accounts receivable*, has been revised to divide accounts receivable into two categories depending on age and asks for separate values for the two categories.

Part 4: *Investments*, has been expanded and includes more detail.

Part 5: *Inventory, excluding agricultural assets*, has been amended to separate non-agricultural from agricultural assets, and has been expanded to include more detail. Categories of inventory are listed, and debtors must include the last date of physical inventory, the net book value of debtor’s interest (if available), the valuation method used for current value, and the current value of debtor’s interest. The form has been further amended to

require the debtor to indicate whether the properties listed are perishable, whether any of the property was purchased within 20 days of the bankruptcy filing, and whether any of the property was appraised by a professional within the year prior to the bankruptcy filing.

In Part 6: *Agricultural assets (other than titled motor vehicles and land)*, the form has been amended to require more detailed responses and to require the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. A requirement to list fishing supplies has been added. The form has been further amended to require the debtor to indicate whether the properties listed are perishable, whether any of the property was purchased within 20 days of the bankruptcy filing, whether a depreciation schedule is available for any of the property listed, and whether any of the property was appraised by a professional within the year prior to the bankruptcy filing.

Part 7: *Office furniture, fixtures, and equipment; and collectibles*, has been amended to combine several categories of assets and to require more detail, including requiring the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. Examples of collectibles are provided. The form has been further amended to require the debtor to indicate whether a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 8: *Machinery, equipment, and vehicles*, has been amended to combine several categories of property and to require more detail, including requiring the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. More examples are provided for each property type. The form has been further amended to

indicate whether a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 9: *Real property*, includes the elements of Official Form 6A, *Real Property*, and has been amended to expand the required information to include the net book value of the debtor's interest and the valuation method used for current value. Also, an instruction has been added for the description and location of the property. The form has been further amended to indicate whether a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 10: *Intangibles and intellectual property*, includes amendments to combine several categories of property and to include more property types. The debtor is required to list the net book value of the debtor's interest and the valuation method used for current value. The question regarding personally identifiable information has been revised, and the form has been amended to require the debtor to indicate if there is an amortization schedule or similar schedule available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 11: *All other assets*, includes a new category for notes receivable, which requires a description, including the name of the obligor, the face amount, and any uncollectible amount. In addition, the form has been amended to combine tax refunds and net operating losses into a single question and to require more detail, to delete the requirement to list the insurance company name for any interests in insurance policies, to expand the question regarding contingent and unliquidated claims, and to include examples of other property. The form has been further amended to include a question regarding whether

the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 12, *Summary*, has been amended to list relevant line numbers for each type of property.

Official Form 206D, *Schedule D: Creditors Who Hold Claims Secured by Property*, replaces Official Form 6D, *Creditors Holding Secured Claims*, for non-individual debtors and has been revised to eliminate instructions that pertain only to individuals. The form has been further amended to instruct debtors that if a creditor has more than one secured claim, to list the creditor separately for each claim; to list the creditor's email address, if known; to indicate if multiple creditors have an interest in the same collateral; to list the order of each creditor's priority interest in the collateral; and to indicate whether the creditor is an insider or related party. The debtor is also instructed to describe the lien and to fill out *Schedule H: Codebtors*, if anyone else is liable on the claim. A new category for describing claims has been added—"unliquidated and neither contingent nor disputed". Finally, the form has been amended to require the debtor to list the value of the debtor's property that secures the claim.

A new Part 2: *List Others to be Notified for a Debt Already Listed in Part 1* has been added, with instructions to list any others who must be notified about the bankruptcy for a debt listed in Part 1 of the form. Examples are provided. The debtor must include the relevant line from Part 1 and the last 4 digits of the account number for the entity.

A new Part 3: *Total Amounts of Claims and the Unsecured Portion of Claims*, has been added.

Official Form 206E/F, *Schedule E/F: Creditors Who Hold Unsecured Claims*, has been amended to combine Official Form 6E, *Schedule E – Creditors Holding Unsecured Priority Claims* and Official Form 6F, *Schedule*

F – Creditors Holding Unsecured Nonpriority Claims for non-individual debtors. Priority unsecured claims are listed in Part 1, and nonpriority unsecured claims are listed in Part 2. The instructions have been revised to require the debtor to list the other party to any executory contract or unexpired lease on this schedule and on *Schedule A/B Real and Personal Property* and *Schedule G: Executory Contracts and Unexpired Leases* (Official Forms 206A/B and 206G).

Part 1, *List All Creditors with PRIORITY Unsecured Claims*, has been revised to delete the requirement to list the amount not entitled to priority and to add requirements to specify the Code section for the priority unsecured claim and whether the claim is subject to offset. A new category of “liquidated and neither contingent nor disputed” has been added to Part 2, *List All Creditors with NONPRIORITY Unsecured Claims*, along with the requirement to indicate if the claim is subject to offset. The instructions have also been significantly shortened. Part 3, *List Others to be Notified About Unsecured Claims*, has been added, with instructions to list any others that the debtor wants to notify about claims listed in Parts 1 and 2. Examples are given. The debtor must include the relevant line from Part 1 or 2 and the last 4 digits of the account number for the entity. A new Part 4: *Total Amounts of the Priority and Nonpriority Unsecured Claims* has been added.

Official Form 206G, *Schedule G: Executory Contracts and Unexpired Leases*, replaces Official Form 6G - *Executory Contracts and Unexpired Leases* for non-individual debtors. The form has been amended to delete the instruction regarding the listing of a minor child’s name from the form as a caution is included in the general instructions for all forms regarding listing a minor child’s name. A new requirement has been added to state the remaining term for any contract or lease listed.

Official Form 206H, Schedule H: Codebtors, replaces Official Form 6H – *Codebtors* for non-individual debtors. The form has been amended to delete the instruction regarding the listing of a minor child’s name from the form as a caution is included in the general instructions for all forms regarding listing a minor child’s name. A new requirement is added to indicate by checkbox what schedule applies to each co-debtor.

Schedules C, Exemptions, I, Income and J, Expenses. There are no Official Forms for Schedules C, I, and J in non-individual debtor cases. There is no need for an Official Form 206C for non-individual debtors because exemptions are inapplicable to non-individual debtors. And, although section 521(a) of the Bankruptcy Code requires all debtors, including non-individual debtors, to provide schedules of income and expenses, uncertainty about the state of the debtor’s business on the petition date – whether it is operating or not, for example – makes it difficult to create standard income and expense forms for non-individual debtors. Some bankruptcy courts have adopted local rules and forms for reporting the income and expenses of non-individual debtors, and Director’s Procedural Forms 2060I and 2060J, can be used and modified as appropriate if there are no applicable local rules and forms.

Declaration. There is no Official Form 206, Declaration. The portion of Official Form 6 Declaration for a declaration on behalf of a corporation or partnership has been replaced by Official Form 202, *Declaration Under Penalty of Perjury for Non-Individual Debtors*. Official Form 202 includes checkboxes for the schedules included in Official Form 206.

Fill in this information to identify the case:

Debtor name _____
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number (if known): _____

Check if this is an amended filing

Official Form 207

Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy 12/15

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

Part 1: Income

1. Gross revenue from business

None

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year		Sources of revenue Check all that apply	Gross revenue (before deductions and exclusions)
From the beginning of the fiscal year to filing date:	From _____ to Filing date MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____
For prior year:	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____
For the year before that:	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____

2. Non-business revenue

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

None

		Description of sources of revenue	Gross revenue from each source (before deductions and exclusions)
From the beginning of the fiscal year to filing date:	From _____ to Filing date MM / DD / YYYY	_____	\$ _____
For prior year:	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	_____	\$ _____
For the year before that:	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	_____	\$ _____

Part 2: List Certain Transfers Made Before Filing for Bankruptcy

3. Certain payments or transfers to creditors within 90 days before filing this case

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,225. (This amount may be adjusted on 4/01/16 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

None

Creditor's name and address	Dates	Total amount or value	Reasons for payment or transfer <i>Check all that apply</i>
3.1. _____ Creditor's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other _____
3.2. _____ Creditor's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other _____

4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or co-signed by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,225. (This amount may be adjusted on 4/01/16 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

None

Insider's name and address	Dates	Total amount or value	Reasons for payment or transfer
4.1. _____ Insider's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
Relationship to debtor			
_____ _____ _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
Relationship to debtor			
_____ _____ _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
Relationship to debtor			
_____ _____ _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
Relationship to debtor			
_____ _____ _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
Relationship to debtor			

5. Repossessions, foreclosures, and returns

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

None

Creditor's name and address	Description of the property	Date	Value of property
5.1. _____ Creditor's name _____ Street _____ _____ City State ZIP Code	_____	_____	\$ _____
5.1. _____ Creditor's name _____ Street _____ _____ City State ZIP Code	_____	_____	\$ _____

6. Setoffs

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
_____ Creditor's name _____ Street _____ _____ City State ZIP Code	_____	_____	\$ _____
Last 4 digits of account number: XXXX- _ _ _ _			

Part 3: Legal Actions or Assignments

7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

None

Case title	Nature of case	Court or agency's name and address	Status of case
7.1. _____ Case number _____ _____ Case title _____ Case number _____ _____	_____	_____ Name _____ Street _____ _____ City State ZIP Code	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
7.2. _____ Case number _____ _____	_____	_____ Name _____ Street _____ _____ City State ZIP Code	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded

8. Assignments and receivership

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

None

Custodian's name and address			Description of the property	Value
_____			_____	\$ _____
Custodian's name				

Street				

City State ZIP Code				
Case title		Court name and address		
_____		_____		
Case number		Name		
_____		_____		
Date of order or assignment		Street		
_____		_____		
		City State ZIP Code		

Part 4: Certain Gifts and Charitable Contributions

9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000

None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
9.1. _____	_____	_____	\$ _____
Recipient's name	_____		
_____	_____		
Street			

City State ZIP Code			
Recipient's relationship to debtor			

9.2. _____	_____	_____	\$ _____
Recipient's name	_____		
_____	_____		
Street			

City State ZIP Code			
Recipient's relationship to debtor			

Part 5: Certain Losses

10. All losses from fire, theft, or other casualty within 1 year before filing this case.

None

Description of the property lost and how the loss occurred	Amount of payments received for the loss	Date of loss	Value of property lost
_____	_____	_____	\$ _____
	If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received.		
	List unpaid claims on Official Form 106A/B (Schedule A/B: Assets – Real and Personal Property).		
_____	_____	_____	\$ _____

Part 6: Certain Payments or Transfers

11. Payments related to bankruptcy

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

None

Who was paid or who received the transfer?	If not money, describe any property transferred	Dates	Total amount or value
11.1. _____ Address _____ Street _____ City State ZIP Code Email or website address _____ Who made the payment, if not debtor? _____	_____ _____	_____	\$ _____

Who was paid or who received the transfer?	If not money, describe any property transferred	Dates	Total amount or value
11.2. _____ Address _____ Street _____ City State ZIP Code Email or website address _____ Who made the payment, if not debtor? _____	_____ _____	_____	\$ _____

12. Self-settled trusts of which the debtor is a beneficiary

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device.

Do not include transfers already listed on this statement.

None

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
_____	_____	_____	\$ _____
Trustee _____	_____		

13. Transfers not already listed on this statement

List any transfers of money or other property—by sale, trade, or any other means—made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

None

Who received transfer?	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
13.1. _____	_____	_____	\$ _____
Address			
Street _____			

City _____ State _____ ZIP Code _____			
Relationship to debtor			

Who received transfer?			
13.2. _____	_____	_____	\$ _____
Address			
Street _____			

City _____ State _____ ZIP Code _____			
Relationship to debtor			

Part 7: Previous Locations

14. Previous addresses

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

Does not apply

Address	Dates of occupancy
14.1. _____	From _____ To _____
Street _____	

City _____ State _____ ZIP Code _____	
14.2. _____	From _____ To _____
Street _____	

City _____ State _____ ZIP Code _____	

Part 8: Healthcare Bankruptcies

15. Healthcare bankruptcies

Is the debtor primarily engaged in offering services and facilities for:

- diagnosing or treating injury, deformity, or disease, or
- providing any surgical, psychiatric, drug treatment, or obstetric care?

- No. Go to Part 9.
 Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	--	---

15.1.

Facility name _____ _____ Street _____ _____ City State ZIP Code	_____ _____ Location where patient records are maintained (if different from facility address). If electronic, identify any service provider. _____ _____	_____ _____ How are records kept? Check all that apply: <input type="checkbox"/> Electronically <input type="checkbox"/> Paper
--	--	--

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	--	---

15.2.

Facility name _____ _____ Street _____ _____ City State ZIP Code	_____ _____ Location where patient records are maintained (if different from facility address). If electronic, identify any service provider. _____ _____	_____ _____ How are records kept? Check all that apply: <input type="checkbox"/> Electronically <input type="checkbox"/> Paper
--	--	--

Part 9: Personally Identifiable Information

16. Does the debtor collect and retain personally identifiable information of customers?

- No.
 Yes. State the nature of the information collected and retained. _____
 Does the debtor have a privacy policy about that information?
 No
 Yes

17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b) or other pension or profit-sharing plan made available by the debtor as an employee benefit?

- No. Go to Part 10.
 Yes. Does the debtor serve as plan administrator?
 No. Go to Part 10.
 Yes. Fill in below:

Name of plan	Employer identification number of the plan
_____	EIN: _____ - _____

- Has the plan been terminated?
 No
 Yes

Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units

18. Closed financial accounts

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

None

	Financial institution name and address	Last 4 digits of account number	Type of account	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
18.1.	_____ Name _____ Street _____ City State ZIP Code	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____
18.2.	_____ Name _____ Street _____ City State ZIP Code	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____

19. Safe deposit boxes

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

None

Depository institution name and address	Names of anyone with access to it	Description of the contents	Does debtor still have it?
_____ Name _____ Street _____ City State ZIP Code	_____ _____ _____	_____ _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Address			
_____ _____			

20. Off-premises storage

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

None

Facility name and address	Names of anyone with access to it	Description of the contents	Does debtor still have it?
_____ Name _____ Street _____ City State ZIP Code	_____ _____ _____	_____ _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Address			
_____ _____			

Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own

21. Property held for another

List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, or held in trust. Do not list leased or rented property.

None

Owner's name and address	Location of the property	Description of the property	Value
_____ Name _____ Street _____ _____ City State ZIP Code	_____ _____ _____	_____ _____ _____	\$ _____

Part 12: Details About Environmental Information

For the purpose of Part 12, the following definitions apply:

- *Environmental law* means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium)
- *Site* means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.
- *Hazardous material* means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- No
 Yes. Provide details below.

Case title	Court or agency name and address	Nature of the case	Status of case
_____ Case number _____	_____ Name _____ Street _____ _____ City State ZIP Code	_____ _____ _____	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded

23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?

- No
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
_____ Name _____ Street _____ _____ City State ZIP Code	_____ Name _____ Street _____ _____ City State ZIP Code	_____ _____ _____	_____

24. Has the debtor notified any governmental unit of any release of hazardous material?

- No
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
Name _____	Name _____	_____	_____
Street _____	Street _____	_____	
_____	_____		
City _____ State _____ ZIP Code _____	City _____ State _____ ZIP Code _____		

Part 13: Details About the Debtor's Business or Connections to Any Business

25. Other businesses in which the debtor has or has had an interest

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

- None

Business name and address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
25.1. _____ Name _____ Street _____ _____	_____ _____ _____	EIN: _____ - _____ - _____ Dates business existed From _____ To _____
25.2. _____ Name _____ Street _____ _____	_____ _____ _____	EIN: _____ - _____ - _____ Dates business existed From _____ To _____
25.3. _____ Name _____ Street _____ _____	_____ _____ _____	EIN: _____ - _____ - _____ Dates business existed From _____ To _____

26. Books, records, and financial statements

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

None

	Dates of service
Name and address 26a.1. _____ Name _____ Street _____ City State ZIP Code	From _____ To _____

	Dates of service
Name and address 26a.2. _____ Name _____ Street _____ City State ZIP Code	From _____ To _____

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

None

	Dates of service
Name and address 26b.1. _____ Name _____ Street _____ City State ZIP Code	From _____ To _____

	Dates of service
Name and address 26b.2. _____ Name _____ Street _____ City State ZIP Code	From _____ To _____

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

None

Name and address	If any books of account and records are unavailable, explain why
26c.1. _____ Name _____ Street _____ City State ZIP Code	_____ _____ _____

Name and address

If any books of account and records are unavailable, explain why

26c.2.

Name

Street

City State ZIP Code

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

None

Name and address

26d.2.

Name

Street

City State ZIP Code

Name and address

26d.2.

Name

Street

City State ZIP Code

27. Inventories

Have any inventories of the debtor's property been taken within 2 years before filing this case?

- No
- Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory

Date of inventory

The dollar amount and basis (cost, market, or other basis) of each inventory

_____ \$ _____

Name and address of the person who has possession of inventory records

27.1.

Name

Street

City State ZIP Code

Name of the person who supervised the taking of the inventory

Date of inventory

The dollar amount and basis (cost, market, or other basis) of each inventory

\$ _____

Name and address of the person who has possession of inventory records

27.2.

Name

Street

City State ZIP Code

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Name	Address	Position and nature of any interest	% of interest, if any
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- No
- Yes. Identify below.

Name	Address	Position and nature of any interest	Period during which position or interest was held
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____

30. Payments, distributions, or withdrawals credited or given to insiders

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- No
- Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
30.1. _____ Name	_____	_____	_____
_____ Street		_____	
_____		_____	
_____		_____	
_____		_____	
City State ZIP Code			
Relationship to debtor			

Name and address of recipient

Name _____

Street _____

City _____

State _____

ZIP Code _____

Relationship to debtor

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

- No
- Yes. Identify below.

Name of the parent corporation

Employer Identification number of the parent corporation

EIN: ____ - ____ - ____

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

- No
- Yes. Identify below.

Name of the pension fund

Employer Identification number of the pension fund

EIN: ____ - ____ - ____

Part 14: Signature and Declaration

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
MM / DD / YYYY

X

Signature of individual signing on behalf of the debtor

Printed name _____

Position or relationship to debtor _____

Are additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

- No
- Yes

Committee Note

Official Form 207, *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy*, replaces Official Form 7, *Statement of Financial Affairs*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 207 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

The form is derived from Official Form 7, *Statement of Financial Affairs*, and has been substantially reorganized. The form is divided into 14 sections grouping similar questions together. Many of the instructions have been shortened, and questions and instructions pertaining to individual debtors have been deleted. The instructions at the beginning of the form have been shortened, and the definitions deleted or moved to other parts of the form.

In Part 1, *Income*, the questions regarding gross revenue from business and non-business revenue have been consolidated, and checkboxes have been added to indicate the source of revenue. A definition of gross revenue has

been added. Also, the debtor is instructed to include revenue only once.

In Part 2, *List Certain Transfers Made Before Filing for Bankruptcy*, information that pertains only to individuals has been eliminated, and the questions related to payments made in the 90 days prior to bankruptcy, payments made to insiders within one year prior to bankruptcy, repossessions, and setoffs have been consolidated. Instructions have been added to include expense reimbursements in answer to the questions regarding payments and to exclude regular employee compensation from the question regarding payments within 90 days. A dollar limitation has been added to the instructions for the question regarding payments to insiders. Checkboxes have been added to both questions to provide a reason for the payment, and the explanation that the dollar limitation changes every three years has been moved to the instructions from the footnotes. “Amount still owing” has been removed, and a definition of “insider” has been added along with a statutory citation to the question regarding insiders. Partnerships have been added to examples of “insiders.” The question regarding setoffs includes a revised definition and has been revised to require that the debtor provide a description of the creditor’s actions and the last four digits of any account number.

In Part 3, *Legal Actions or Assignments*, several questions have been consolidated, instructions pertaining only to individuals have been removed, and additional examples have been added. Checkboxes have been added to indicate the status of the legal action. The requirement to list the terms of any assignment or settlement has been removed.

In Part 4, *Certain Gifts and Charitable Contributions*, instructions pertaining only to individuals have been removed, and the reporting threshold has been changed to \$1,000 per recipient. The look-back period has been increased from one to two years.

Part 5, *Certain Losses*, has been revised to expand the types of payments for losses, and an instruction has been added to list unpaid claims on Official Form 206A/B (*Schedule A/B: Assets – Real and Personal Property*). Portions of the instructions that pertain only to individuals have been removed. Losses due to gambling have been excluded from this part.

In Part 6, *Certain Payments or Transfers*, the questions regarding payments related to bankruptcy, payments to self-settled trusts, and other payments or transfers have been consolidated. Instructions and questions that relate only to individuals have been eliminated. An instruction has been added to include payments related to restructuring, and the email or website of the person who received the money or transfer is added as a requirement. In response to the question regarding self-settled trusts and other transfers not already listed, debtors are instructed to include payments or transfers of property made by a person acting on behalf of the debtor. A requirement has been added to the question regarding self-settled trusts to list the name of the trustee. The relationship to the debtor must be included for all transfers not already listed, as well as any debts paid in exchange. There is a reminder added not to include transfers already listed.

Part 7, *Previous Locations*, has been revised in the instructions, and information pertaining only to individuals has been deleted.

Part 8, *Healthcare Bankruptcies*, is new. Part 8 requires additional information if the debtor is primarily engaged in offering services and facilities for diagnosing or treating injury, deformity, or disease or providing any surgical, psychiatric, drug treatment or obstetric care. This part has been added to comply with the special requirements imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Part 9, *Personally Identifiable Information*, is also new and includes questions about pension and profit sharing plans and adds a question about whether the debtor collects and retains personally identifiable information of customers. Questions are added about whether the debtor is the plan administrator of any pension or profit sharing plan and if any such plan is terminated. Similar to Part 8, this part has been added to comply with the special requirements imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

In Part 10, *Certain Financial Accounts, Safe Deposit Boxes, and Storage Units*, money market accounts have been added to the examples provided for the question regarding financial accounts, and checkboxes have been added to indicate the type of account. The requirement of the date of surrender of any safe deposit box has been removed. A question has been added about whether the debtor has property kept in storage units or warehouses within one year of filing, and the debtor must provide the facility name and address, the name and address of anyone with access to the facility, the description of the contents, and whether the debtor still has the storage unit or warehouse. Facilities that are in a part of a building in which the debtor does business are excluded.

In Part 11, *Property the Debtor Holds or Controls That the Debtor Does Not Own*, an instruction has been added to include any property borrowed from, being stored for, or held in trust, and to exclude leased or rented property.

Part 12, *Details About Environmental Information*, has been revised to include new definitions of “Environmental law,” “Site,” and “Hazardous materials.” An instruction to report all notices, releases, and proceedings known, regardless of when they occurred, has been added.

In Part 13, *Details About the Debtor's Business or Connections to Any Business*, questions regarding various business issues have been consolidated, and instructions that pertain only to individuals have been eliminated. The five-percent ownership limitation has been eliminated. The phrase "kept or supervised the keeping of books or account and records" has been replaced with "maintained the debtor's books and records." The instructions for the question regarding auditing or preparation of financial records have been revised to add compiling and reviewing the debtor's books of account and records. A requirement has been added to explain if the debtor's books of account and records are unavailable. The questions regarding current and former officers, directors, managing members, general partners, members in control, or controlling shareholders have combined the formerly separate corporate and partnership questions. The question regarding former officers and partners has been changed to add the requirement of indicating the start and end dates for each listing. The instruction for withdrawals from a partnership or distribution by a corporation has been changed to add salary, other compensation, and draws to the list of examples.

In Part 14, *Signature and Declaration*, the declaration under penalty of perjury has been revised in order to conform to the language of 28 U.S.C. § 1746. See Rule 1008. A statement has been added that the individual signing on behalf of the debtor has reviewed the information in the Statement of Financial Affairs and any attachments and has "a reasonable belief that the information is true and correct." The signature boxes for bankruptcy petition preparers have been eliminated, and checkboxes for the debtor to indicate whether additional pages are attached to the form have been added.

Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7 _____ MM / DD / YYYY] OR
Case number: _____	[Date case filed in chapter _____ MM / DD / YYYY]
	Date case converted to chapter 7 _____ MM / DD / YYYY

Official Form 309A (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline 12/15

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p>6. Bankruptcy clerk's office</p> <p>Documents in this case may be filed at this address.</p> <p>You may inspect all records filed in this case at this office or online at www.pacer.com.</p>	<p>Hours open _____</p> <p>Contact phone _____</p>
<p>7. Meeting of creditors</p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.</p>	<p>_____ at _____</p> <p>Date Time</p> <p>Location: _____</p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>
<p>8. Presumption of abuse</p> <p>If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.</p>	<p>[The presumption of abuse does not arise.]</p> <p>[The presumption of abuse arises.]</p> <p>[Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]</p>
<p>9. Deadlines</p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:</p> <p>You must file a complaint:</p> <p style="padding-left: 20px;">if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or</p> <p style="padding-left: 20px;">if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</p> <p>You must file a motion if you assert that the discharge should be denied under § 727(a)(8) or (9).</p> <hr/> <p>Deadline to object to exemptions:</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>
<p>10. Proof of claim</p> <p>Please do not file a proof of claim unless you receive a notice to do so.</p>	<p>No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.</p>
<p>11. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>
<p>12. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.</p>

Information to identify the case:	
Debtor 1 _____ <small>First Name Middle Name Last Name</small>	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
Debtor 2 (Spouse, if filing) _____ <small>First Name Middle Name Last Name</small>	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ <small>(State)</small>	[Date case filed for chapter 7 _____] OR [Date case filed in chapter _____] OR [Date case converted to chapter 7 _____] <small>MM / DD / YYYY</small>
Case number: _____	<small>MM / DD / YYYY</small>

Official Form 309B (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case — Proof of Claim Deadline Set 12/15

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p>6. Bankruptcy clerk's office</p> <p>Documents in this case may be filed at this address.</p> <p>You may inspect all records filed in this case at this office or online at www.pacer.com.</p>	<p>Hours open _____</p> <p>Contact phone _____</p>
<p>7. Meeting of creditors</p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.</p> <p>Creditors may attend, but are not required to do so.</p>	<p>_____ at _____</p> <p>Date Time</p> <p>Location: _____</p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>
<p>8. Presumption of abuse</p> <p>If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.</p>	<p>[The presumption of abuse does not arise.]</p> <p>[The presumption of abuse arises.]</p> <p>[Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]</p>
<p>9. Deadlines</p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable: Filing deadline: _____</p> <p>You must file a complaint:</p> <ul style="list-style-type: none"> ■ if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or ■ if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6). <p>You must file a motion if you assert that</p> <ul style="list-style-type: none"> ■ the discharge should be denied under § 727(a)(8) or (9). <hr/> <p>Deadline for all creditors to file a proof of claim (except governmental units): Filing deadline: _____</p> <p>Deadline for governmental units to file a proof of claim: Filing deadline: _____</p> <hr/> <p>Deadlines for filing proof of claim:</p> <p>A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.</p> <p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p> <hr/> <p>Deadline to object to exemptions: Filing deadline: 30 days after the <i>conclusion</i> of the meeting of creditors</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>
<p>10. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>
<p>11. Liquidation of the debtor's property and payment of creditors' claims</p>	<p>The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them in the order specified by the Bankruptcy Code. To ensure you receive any share of that money, you must file a proof of claim as described above.</p>
<p>12. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.</p>

Information to identify the case:	
Debtor _____ Name	EIN _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7 _____ MM / DD / YYYY OR [Date case filed in chapter _____ MM / DD / YYYY Date case converted to chapter 7 _____ MM / DD / YYYY]
Case number: _____	

Official Form 309C (For Corporations or Partnerships)

Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline **12/15**

For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____
7. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.
8. Proof of claim Please do not file a proof of claim unless you receive a notice to do so.	No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.
9. Creditors with a foreign address	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

Information to identify the case:	
Debtor _____ Name	EIN _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7 _____ MM / DD / YYYY OR [Date case filed in chapter _____ MM / DD / YYYY Date case converted to chapter 7 _____] MM / DD / YYYY
Case number: _____	

Official Form 309D (For Corporations or Partnerships)

Notice of Chapter 7 Bankruptcy Case — Proof of Claim Deadline Set 12/15

For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____
7. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

For more information, see page 2 ►

8. Deadlines

The bankruptcy clerk's office must receive proofs of claim by the following deadlines.

Deadline for all creditors to file a proof of claim (except governmental units):

Filing deadline: _____

Deadline for governmental units to file a proof of claim:

Filing deadline: _____

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

9. Creditors with a foreign address

If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

10. Liquidation of the debtor's property and payment of creditors' claims

The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To ensure you receive any share of that money, you must file a proof of claim, as described above.

Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed in chapter 11 _____ MM / DD / YYYY] OR
Case number: _____	[Date case filed in chapter _____ MM / DD / YYYY]
	Date case converted to chapter 11 _____ MM / DD / YYYY

Official Form 309E (For Individuals or Joint Debtors)

Notice of Chapter 11 Bankruptcy Case

12/15

For the debtors listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors and debtors. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 11 plan may result in a discharge of debt. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 10 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____

For more information, see page 2 ►

<p>6. Meeting of creditors</p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.</p> <p>Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time</p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>	<p>Location: _____</p>
<p>7. Deadlines</p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:</p> <p>You must file a complaint:</p> <ul style="list-style-type: none"> ■ if you assert that the debtor is not entitled to receive a discharge of any debts under 11 U.S.C. § 1141(d)(3) or ■ if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6). 	<p>First date set for hearing on confirmation of plan. The court will send you a notice of that date later.</p> <p>Filing deadline for dischargeability complaints: _____</p>
<p>Deadline for filing proof of claim:</p> <p>[Not yet set. If a deadline is set, the court will send you another notice.] or [date, if set by the court]]</p> <p>A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office.</p> <p>Your claim will be allowed in the amount scheduled unless:</p> <ul style="list-style-type: none"> ■ your claim is designated as <i>disputed</i>, <i>contingent</i>, or <i>unliquidated</i>; ■ you file a proof of claim in a different amount; or ■ you receive another notice. <p>If your claim is not scheduled or if your claim is designated as <i>disputed</i>, <i>contingent</i>, or <i>unliquidated</i>, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.</p> <p>You may review the schedules at the bankruptcy clerk's office or online at www.pacer.gov.</p> <p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>		<p>Deadline to object to exemptions:</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>
<p>Deadline to object to exemptions:</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>		<p>Filing deadline: 30 days after the <i>conclusion</i> of the meeting of creditors</p>
<p>8. Creditors with a foreign address</p>	<p>If you are a creditor receiving mailed notice at a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>	
<p>9. Filing a Chapter 11 bankruptcy case</p>	<p>Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate the debtor's business.</p>	
<p>10. Discharge of debts</p>	<p>Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of a debt. See 11 U.S.C. § 1141(d). However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you believe that a particular debt owed to you should be excepted from the discharge under 11 U.S.C. § 523 (a)(2), (4), or (6), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1141 (d)(3), you must file a complaint and pay the filing fee in the clerk's office by the first date set for the hearing on confirmation of the plan. The court will send you another notice telling you of that date.</p>	
<p>11. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 7.</p>	

Information to identify the case:			
Debtor _____ <small>Name</small>	EIN	_____	
United States Bankruptcy Court for the: _____ District of _____ <small>(State)</small>		[Date case filed in chapter 11 _____]	MM / DD / YYYY OR
Case number: _____		[Date case filed in chapter _____]	MM / DD / YYYY
		Date case converted to chapter 11 _____	MM / DD / YYYY

Official Form 309F (For Corporations or Partnerships)

Notice of Chapter 11 Bankruptcy Case

12/15

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____
6. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

For more information, see page 2 ►

7. Proof of claim deadline

Deadline for filing proof of claim:

[Not yet set. If a deadline is set, the court will send you another notice.] or

[date, if set by the court]

A proof of claim is a signed statement describing a creditor’s claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk’s office.

Your claim will be allowed in the amount scheduled unless:

- your claim is designated as *disputed*, *contingent*, or *unliquidated*;
- you file a proof of claim in a different amount; or
- you receive another notice.

If your claim is not scheduled or if your claim is designated as *disputed*, *contingent*, or *unliquidated*, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.

You may review the schedules at the bankruptcy clerk’s office or online at www.pacer.gov.

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

8. Exception to discharge deadline

The bankruptcy clerk’s office must receive a complaint and any required filing fee by the following deadline.

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).

Deadline for filing the complaint:

9. Creditors with a foreign address

If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

10. Filing a Chapter 11 bankruptcy case

Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.

11. Discharge of debts

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk’s office by the deadline.

Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 12 _____ MM / DD / YYYY OR [Date case filed in chapter _____ MM / DD / YYYY Date case converted to chapter 12 _____ MM / DD / YYYY]
Case number: _____	

Official Form 309G (For Individuals or Joint Debtors)

Notice of Chapter 12 Bankruptcy Case

12/15

For the debtors listed above, a case has been filed under chapter 12 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, from the debtors' property, or from certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 12 plan may result in a discharge of debt. Creditors who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____

For more information, see page 2 ►

<p>7. Meeting of creditors</p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time</p>	<p>Location: _____</p>
<p>8. Deadlines</p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>Deadline to file a complaint to challenge dischargeability of certain debts:</p> <p>You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</p>	<p>Filing deadline: _____</p>
	<p>Deadline for all creditors to file a proof of claim (except governmental units):</p>	<p>Filing deadline: _____</p>
	<p>Deadline for governmental units to file a proof of claim:</p>	<p>Filing deadline: _____</p>
	<p>Deadlines for filing proof of claim:</p> <p>A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office.</p> <p>If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.</p> <p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>	
	<p>Deadline to object to exemptions:</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>	<p>Filing deadline: 30 days after the <i>conclusion</i> of the meeting of creditors</p>
<p>9. Filing of plan</p>	<p>[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: _____ at _____ Location: _____ Date Time]</p> <p>Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]</p> <p>Or [The debtor has not filed a plan as of this date. A copy of the plan or summary and a notice of the hearing on confirmation will be sent separately.]</p>	
<p>10. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>	
<p>11. Filing a Chapter 12 bankruptcy case</p>	<p>Chapter 12 allows family farmers and family fishermen to reorganize according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan. You may object to confirmation of the plan and attend the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business unless the court orders otherwise.</p>	
<p>12. Discharge of debts</p>	<p>Confirmation of a chapter 12 plan may result in a discharge of debts, which may include all or part of your debt. Unless the court orders otherwise, the discharge will not be effective until all payments under the plan are made. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt excepted under 11 U.S.C. § 523(a)(2), (4), or (6), you must start a judicial proceeding by filing a complaint and paying the filing fee in the clerk's office by the deadline.</p>	
<p>13. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 8.</p>	

Information to identify the case:	
Debtor _____ Name	EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 12 _____ MM / DD / YYYY OR
Case number: _____	[Date case filed in chapter _____ MM / DD / YYYY
	Date case converted to chapter 12 _____ MM / DD / YYYY

Official Form 309H (For Corporations or Partnerships)

Notice of Chapter 12 Bankruptcy Case

12/15

For the debtor listed above, a case has been filed under chapter 12 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor, the debtor's property, or certain codebtors. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 12 plan may result in the discharge of debt. Creditors who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____
6. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p>7. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time</p>	<p>Location: _____</p>
<p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>		
<p>8. Exception to discharge deadline The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.</p>	<p>You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</p>	<p>Deadline for filing the complaint: _____</p>
<p>9. Filing of plan</p>	<p>[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: _____ at _____ Location: _____ Date Time]</p> <p>Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]</p> <p>Or [The debtor has not filed a plan as of this date. A copy of the plan or summary and a notice of the hearing on confirmation will be sent separately.]</p>	
<p>10. Deadlines</p>	<p>Deadline for all creditors to file a proof of claim (except governmental units):</p> <p>Deadline for governmental units to file a proof of claim:</p>	<p>Filing deadline: _____</p> <p>Filing deadline: _____</p>
<p>A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>		
<p>11. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>	
<p>12. Filing a chapter 12 bankruptcy case</p>	<p>Chapter 12 allows family farmers and family fishermen to reorganize according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan. You may object to confirmation of the plan and attend the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business.</p>	
<p>13. Discharge of debts</p>	<p>Confirmation of a chapter 12 plan may result in a discharge of debts, which may include all or part of your debt. Unless the court orders otherwise, the discharge will not be effective until all payments under the plan are made. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.</p>	

Information to identify the case:		
Debtor 1	_____	Last 4 digits of Social Security number or ITIN _____
	First Name Middle Name Last Name	EIN _____
Debtor 2 (Spouse, if filing)	_____	Last 4 digits of Social Security number or ITIN _____
	First Name Middle Name Last Name	EIN _____
United States Bankruptcy Court for the: _____	District of _____	[Date case filed for chapter 13 _____
	(State)	MM / DD / YYYY OR
Case number: _____		[Date case filed in chapter _____
		MM / DD / YYYY
		Date case converted to chapter 13 _____
		MM / DD / YYYY

Official Form 309I

Notice of Chapter 13 Bankruptcy Case

12/15

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees. Read it carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 14 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.com .	Hours open _____ Contact phone _____

For more information, see page 2 ►

7. Meeting of creditors

Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.

Creditors may attend, but are not required to do so.

_____ at _____
Date Time

Location: _____

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

8. Deadlines

The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.

Deadline to file a complaint to challenge dischargeability of certain debts:

Filing deadline: _____

You must file:

a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f), or
a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).

Deadline for all creditors to file a proof of claim (except governmental units):

Filing deadline: _____

Deadline for governmental units to file a proof of claim:

Filing deadline: _____

Deadlines for filing proof of claim:

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim.

Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

Deadline to object to exemptions:

Filing deadline: 30 days after the conclusion of the meeting of creditors

The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.

9. Filing of plan

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: _____ at _____ Location: _____
Date Time]

Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan or summary and a notice of the hearing on confirmation will be sent separately.]

10. Creditors with a foreign address

If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

11. Filing a chapter 13 bankruptcy case

Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy of the plan [is included with this notice] or [will be sent to you later], and [the confirmation hearing will be held on the date shown in line 9 of this notice] or [the court will send you a notice of the confirmation hearing]. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.

12. Exempt property

The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov. If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.

13. Discharge of debts

Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 8.

Committee Note

Official Forms 309A-I, collectively the Bankruptcy Case Commencement Notices, have been revised as part of the Forms Modernization Project to make them easier to read and understand. The notices, derived from Official Forms 9A-I are renumbered and stylistic changes have been made.

References to the limitations on the automatic stay imposed by 11 U.S.C. § 362(c)(3) and (4) in some repeat bankruptcy filings by individuals have been deleted from the three versions of the notice for cases filed by corporations and partnerships. Email addresses for the debtor's attorney and the trustee have been added to the form.

The parties are informed that they may review papers filed in the case through the judiciary's PACER system (Public Access to Court Electronic Records) as well as at the bankruptcy clerk's office.

The lettering scheme for the versions of Official Form 309 track the versions of Official Form 9 used in different types of bankruptcy cases with following exceptions. Official Forms 9E(Alt.) and 9F(Alt.) have been eliminated by including alternative language in Official Forms 309E and 309F to be used if the court sets a deadline for filing claims at the start of the chapter 11 case. In addition, the B and C versions have been reversed in order. That is, Official Form 9C has been designated 309B and Official Form 9B as 309C. This groups together the notices for chapter 7 individual debtors and for non-individual debtors. Finally, as a result of the reformatting, Official Form 309C has been reduced to a single page.

The four versions of the form for chapter 7 cases have been renamed to state whether the notice specifies a deadline for filing proofs of claim, rather than whether the case is an "asset" or "no-asset" case.

[Caption as in 416A]

Order and Notice for Hearing on Disclosure Statement

To the debtor, its creditors, and other parties in interest:

A disclosure statement and a plan under chapter 11 [or chapter 9] of the Bankruptcy Code having been filed by _____ on _____,

IT IS ORDERED and notice is hereby given, that:

1. The hearing to consider the approval of the disclosure statement shall be held at:

_____,
on _____, at _____ o'clock __.m.

2. _____ is fixed as the last day for filing and serving in accordance with Fed. R. Bankr. P. 3017(a) written objections to the disclosure statement.
3. Within _____ days after entry of this order, the disclosure statement and plan shall be distributed in accordance with Fed. R. Bankr. P. 3017(a).
4. Requests for copies of the disclosure statement and plan shall be mailed to the debtor in possession [or trustee or debtor or _____] at the following mailing address:

[_____].

MM / DD / YYYY

By the court: _____
United States Bankruptcy Judge

Committee Note

Official Form 312, *Order and Notice for Hearing on Disclosure Statement* replaces Official Form 12, *Order and Notice for Hearing on Disclosure Statement*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

[Caption as in 416A]

Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof

A disclosure statement under chapter 11 of the Bankruptcy Code having been filed by _____ on _____ [if appropriate, and by _____, on _____], referring to a plan under chapter 11 of the Code filed by _____, on _____ [if appropriate, and by _____, on _____ respectively] [if appropriate, as modified by a modification filed on _____]; and

It having been determined after hearing on notice that the disclosure statement [or statements] contain[s] adequate information:

IT IS ORDERED, and notice is hereby given, that:

- A. The disclosure statement filed by _____ dated _____ [if appropriate, and by _____, dated _____] is [are] approved.
- B. _____ is fixed as the last day for filing written acceptances or rejections of the plan [or plans] referred to above.
- C. Within _____ days after the entry of this order, the plan [or plans] or a summary or summaries thereof approved by the court, [and [if appropriate] a summary approved by the court of its opinion, if any, dated _____, approving the disclosure statement [or statements]], the disclosure statement [or statements], and a ballot conforming to *Ballot for Accepting or Rejecting Plan of Reorganization* (Official Form 314) shall be mailed to creditors, equity security holders, and other parties in interest, and shall be transmitted to the United States trustee, as provided in Fed. R. Bankr. P. 3017(d).
- D. If acceptances are filed for more than one plan, preferences among the plans so accepted may be indicated.
- E. [If appropriate] _____ is fixed for the hearing on confirmation of the plan [or plans].
- F. [If appropriate] _____ is fixed as the last day for filing and serving pursuant to Fed. R. Bankr. P. 3020(b)(1) written objections to confirmation of the plan.

MM / DD / YYYY

By the court: _____
United States Bankruptcy Judge

Committee Note

Official Form 313, *Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof* replaces Official Form 13, *Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Official Form 314
(12/15)

[Caption as in 416A]

Class [] Ballot for Accepting or Rejecting Plan of Reorganization

[Proponent] filed a plan of reorganization dated [Date] (the *Plan*) for the Debtor in this case. The Court has [conditionally] approved a disclosure statement with respect to the Plan (the *Disclosure Statement*). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from [name, address, telephone number and telecopy number of proponent/proponent's attorney.]

Court approval of the disclosure statement does not indicate approval of the Plan by the Court.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your [claim] [equity interest] has been placed in class [] under the Plan. If you hold claims or equity interests in more than one class, you will receive a ballot for each class in which you are entitled to vote.

If your ballot is not received by [name and address of proponent's attorney or other appropriate address] on or before [date], and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan.

If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.

Acceptance or Rejection of the Plan

[At this point the ballot should provide for voting by the particular class of creditors or equity holders receiving the ballot using one of the following alternatives:]

[If the voter is the holder of a secured, priority, or unsecured nonpriority claim:]

The undersigned, the holder of a Class [] claim against the Debtor in the unpaid amount of Dollars (\$)

[or, if the voter is the holder of a bond, debenture, or other debt security:]

The undersigned, the holder of a Class [] claim against the Debtor, consisting of Dollars (\$) principal amount of [describe bond, debenture, or other debt security] of the Debtor (For purposes of this Ballot, it is not necessary and you should not adjust the principal amount for any accrued or unmatured interest.)

[or, if the voter is the holder of an equity interest:]

The undersigned, the holder of Class [] equity interest in the Debtor, consisting of _____ shares or other interests of [describe equity interest] in the Debtor Official Form 14 continued (12/03)

[In each case, the following language should be included:]

Check one box only

Accepts the plan

Rejects the plan

Dated: _____

Print or type name: _____

Signature: _____ Title (if corporation or partnership) _____

Address: _____

Return this ballot to:

[Name and address of proponent's attorney or other appropriate address]

Committee Note

Official Form 314, *Ballot for Accepting or Rejecting Plan* replaces Official Form 14, *Ballot for Accepting or Rejecting Plan*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Official Form 315
(12/15)

[Caption as in 416A]

Order Confirming Plan

The plan under chapter 11 of the Bankruptcy Code filed by _____, on _____ [if applicable, as modified by a modification filed on _____], or a summary thereof, having been transmitted to creditors and equity security holders; and

It having been determined after hearing on notice that the requirements for confirmation set forth in 11 U.S.C. § 1129(a) [or, if appropriate, 11 U.S.C. § 1129(b)] have been satisfied;

IT IS ORDERED that:

The plan filed by _____, on _____, [if appropriate, include dates and any other pertinent details of modifications to the plan] is confirmed. [If the plan provides for an injunction against conduct not otherwise enjoined under the Code, include the information required by Rule 3020.]

A copy of the confirmed plan is attached.

MM / DD / YYYY

By the court: _____
United States Bankruptcy Judge

Committee Note

Official Form 315, *Order Confirming Plan* replaces Official Form 15, *Order Confirming Plan*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Official Form 410

Instructions for Proof of Claim

United States Bankruptcy Court

12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

How to fill out this form

- **Fill in all of the information about the claim as of the date the case was filed.**
- **Attach any supporting documents to this form.**
Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)

Also attach copies of documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called “Bankruptcy Rule”) 3001(c) and (d).
- **Do not attach original documents because attachments may be destroyed after scanning.**
- **If the claim is based on delivering health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.**
- **A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, individual’s tax identification number, or financial account number, and only the year of any person’s date of birth.** See Bankruptcy Rule 9037.
- **For a minor child, fill in only the child’s initials and the full name and address of the child’s parent or guardian.** For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State)*. See Bankruptcy Rule 9037.

Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, either enclose a stamped self-addressed envelope and a copy of this form or go to the court’s PACER system (www.pacer.psc.uscourts.gov) to view the filed form.

Understand the terms used in this form

Administrative expense: Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing the bankruptcy estate. 11 U.S.C. § 503.

Claim: A creditor’s right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Creditor: A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (10).

Debtor: A person, corporation, or other entity who is in bankruptcy. Use the debtor’s name and case number as shown in the bankruptcy notice you received. 11 U.S.C. § 101 (13).

Evidence of perfection: Evidence of perfection of a security interest may include a mortgage; lien; certificate of title; financing statement; in some instances, the original security agreement, or other document showing that a security interest has been filed or recorded.

Information that is entitled to privacy: A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

Priority claim: A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

Proof of claim: A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Redaction of information: Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to privacy on the *Proof of Claim* form and any attached documents.

Secured claim under 11 U.S.C. §506(a): A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily

granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment may be a lien.

Setoff: Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

Uniform claim identifier: An optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

Unsecured claim: A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part if the amount of the claim is more than the value of the property on which a creditor has a lien.

Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

Do not file these instructions with your form.

Fill in this information to identify the case:

Draft Jan. 17, 2014

Debtor 1 _____
 Debtor 2 _____
 (Spouse, if filing)
 United States Bankruptcy Court for the: _____ District of _____
 (State)
 Case number _____

Official Form 410
Proof of Claim

12/15

Read the instructions before filling out this form. Use this form to make a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

The law requires that filers **must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? _____
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else? No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Name _____	Name _____
	Number _____ Street _____	Number _____ Street _____
	City _____ State _____ ZIP Code _____	City _____ State _____ ZIP Code _____
	Contact phone _____	Contact phone _____
	Contact email _____	Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	

4. Does this claim amend one already filed? No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim? No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?** No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ ____ ____ ____

7. **How much is the claim?** \$ _____. **For leases state only the amount of default.**

Does this amount include interest or other charges?

No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?** Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as healthcare information.

9. **Is all or part of the claim secured?** No
 Yes. The claim is secured by a lien on property.

Nature of property:

- Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____%

- Fixed
 Variable

10. **Is this claim based on a lease?** No
 Yes. **Amount necessary to cure any default as of the date of the petition.** \$ _____

11. **Does this claim involve a right to setoff?** No
 Yes. Explain: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

- No
 Yes. *Check all that apply:*

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies. \$ _____

* Amounts are subject to adjustment on 4/1/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date _____
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name _____
First name Middle name Last name

Title _____

Company _____
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
Number Street

City State ZIP Code

Contact phone _____ Email _____

Official Form 410A

Instructions for Mortgage Proof of Claim Attachment

United States Bankruptcy Court

12/15

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 used to identify the mortgage loan number (i.e., the last 4 digits of the loan account number or any other information 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.

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 amount of the principal and interest portion 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 your report on line 9 of Official Form 410.

Information required in Part 4: Monthly Mortgage Payment

Insert the principal and interest payment amount of the monthly payment as of the petition date.

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.

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:	14-00001	Principal balance:	\$103,000.00	Principal & interest due:	\$2,000.00	Principal & interest:	\$500.00
Debtor 1:	John Smith	Interest due:	\$1900.00	Prepetition fees due:	\$1,000.00	Monthly escrow:	\$200.00
Debtor 2:	Jane Smith	Fees, costs due:	\$1,000.00	Escrow deficiency for funds advanced:	\$1,600.00	Private mortgage insurance:	n/a
Last 4 digits to identify:	6789	Escrow deficiency for funds advanced:	\$1,600.00	Projected escrow shortage:	\$1,000.00	Total monthly payment:	\$700.00
Creditor:	Mortgage Trust 2012	Less total funds on hand:	– \$200.00	Less funds on hand:	– \$200.00		
Servicer:	Mortgage Servicer A	Total debt:	\$107,900.00	Total prepetition arrearage:	\$5,400.00		
Fixed accrual/daily simple interest/other:	Fixed Accrual						

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.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges balance	Unapplied funds balance
4/1/13	\$700.00			Monthly payment	4/1/2013	\$700.00						\$103,050			0	
4/16/13			\$50.00	Late fee	4/1/2013	\$700.00				\$50.00		\$103,050			\$50.00	
4/25/14			\$600.00	Property taxes	4/1/2013	\$700.00			\$600.00			\$103,050		-\$600.00	\$50.00	
5/1/13	\$700.00			Monthly payment	4/1/2013	\$1400.00						\$103,050		-\$600.00	\$50.00	
5/16/13			\$50.00	Late fee	4/1/2013	\$1400.00				\$50.00		\$103,050		-\$600.00	\$100.00	
6/1/13	\$700.00			Monthly payment	4/1/2013	\$2100.00						\$103,050		-\$600.00	\$100.00	
6/16/13			\$50.00	Late fee	4/1/2013	\$2100.00				\$50.00		\$103,050		-\$600.00	\$150.00	
6/25/13			\$1200.00	Insurance	4/1/2013	\$2100.00			\$1200.00			\$103,050		-\$1800.00	\$150.00	
7/1/13	\$700.00			Monthly payment	4/1/2013	\$2800.00						\$103,050		\$1800.00	\$150.00	
7/16/13			\$50.00	Late fee	4/1/2013	\$2800.00						\$103,050		\$1800.00	\$150.00	
7/25/13			\$850.00	Foreclosure fee	4/1/2013	\$2800.00				\$850.00		\$103,050		\$1800.00	\$1000.00	
7/27/13		\$820.00		Payment	5/1/2013	\$2100.00	\$50.00	\$450.00	\$200.00		\$120.00	\$103,000		\$1600.00	\$1000.00	\$120.00
8/1/13	\$700.00			Monthly payment	6/1/2013	\$2800.00						\$103,000		\$1600.00	\$1000.00	
8/3/13				Bankruptcy Filed												

Fill in this information to identify the case:

Draft March 31, 2014

Debtor 1 _____
Debtor 2 _____
(Spouse, if filing)
United States Bankruptcy Court for the: _____ District of _____
(State)
Case number _____

Official Form 410S1

Notice of Mortgage Payment Change

12/15

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to 11 U.S.C. § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: _____

Court claim no. (if known): _____

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

Date of payment change: _____
Must be at least 21 days after date of this notice

New total payment: \$ _____
Principal, interest, and escrow, if any

Part 1: Escrow Account Payment Adjustment

1. Will there be a change in the debtor's escrow account payment?

- No
 Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why: _____

Current escrow payment: \$ _____ New escrow payment: \$ _____

Part 2: Mortgage Payment Adjustment

2. Will the debtor's principal and interest payment change based on an adjustment to the interest rate in the debtor's variable-rate note?

- No
 Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: _____

Current interest rate: _____% New interest rate: _____%

Current principal and interest payment: \$ _____ New principal and interest payment: \$ _____

Part 3: Other Payment Change

3. Will there be a change in the debtor's mortgage payment for a reason not listed above?

- No
 Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)

Reason for change: _____

Current mortgage payment: \$ _____ New mortgage payment: \$ _____

Part 4: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

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

X _____ Date ____/____/____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street

City State ZIP Code

Contact phone (____) ____-____ Email _____

Fill in this information to identify the case:

Draft March 31, 2014

Debtor 1 _____

Debtor 2 _____
(Spouse, if filing)

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

Case number _____

Official Form 410S2

Notice of Postpetition Mortgage Fees, Expenses, and Charges 12/15

If you hold a claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any postpetition fees, expenses, and charges that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002. 1.

Name of creditor: _____

Court claim no. (if known): _____

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

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

No

Yes. Date of the last notice: ____/____/____

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	_____	(3) \$ _____
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: _____	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002. 1.

Part 2: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

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

X _____ Date ____/____/____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street
City State ZIP Code

Contact phone (____) ____-____ Email _____

Committee Note

Official Form 410, *Proof of Claim*, applies in all cases. Form 410 replaces Official Form 10, Proof of Claim. It is renumbered to distinguish it from the forms used by debtors for case opening, and includes stylistic changes throughout the form. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. Because the goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions.

Official Form 410 has been substantially reorganized. A new question has been added at line 10 that solicits information about claims based on leases.

Official Form 410A, *Mortgage Proof of Claim Attachment*, is revised in its content and format. Rather than requiring a home mortgage claimant to fill in blanks with itemized information about the principal, interest, and fees due as of the petition date and the amount necessary to cure a prepetition default, the form now requires the claimant to provide a loan history that reveals when payments were received, how they were applied, when fees and charges were incurred, and when escrow charges were satisfied. Because completion of the revised form can be automated, it will permit claimants to comply with Rule 3001(c)(2)(C) with efficiency and accuracy. Attachment of a loan history with a home mortgage proof of claim will also provide transparency about the basis for the claimant's calculation of the claim and arrearage amount.

The loan history should begin with 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.

Official Forms 410S1 and 410S2, *Notice of Mortgage Payment Change* and *Notice of Postpetition Mortgage Fees, Expenses, and Charges*, are revised as part of the Forms Modernization Project. There are formatting changes throughout the forms.

Debtor [1] _____

[Debtor 2] _____

Other names used by the debtor within the last 8 years

[Other names used by the debtor within the last 8 years]

Address

[Address, if Debtor 2 lives at a different address

_____]

Last 4 digits of Social Security number or ITIN _____

Last 4 digits of Social Security number or ITIN _____

[Employer Identification Number _____]

[Employer Identification Number _____]

United States Bankruptcy Court for the _____

[Bankruptcy district]

Case number _____

Chapter you are filing under _____

[Designation of Character of Paper]

Committee Note

Official Form 416A, *Caption*, applies on all forms where prescribed. Form 416A replaces Official Form 16A, *Caption*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Debtor _____

United States Bankruptcy Court for the _____

[Bankruptcy district]

Case number: _____

Chapter you are filing under: _____

[Designation of Character of Paper]

Committee Note

Official Form 416B, *Caption*, applies on all forms where prescribed. Form 416B replaces Official Form 16B, *Caption*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Debtor 1 _____

Plaintiff _____

Defendant _____

United States Bankruptcy Court for the _____

[Bankruptcy district]

Case number: _____

Chapter you are filing under: _____ Adv. Proc. No. _____

Complaint [or other designation]

[If in a *Notice of Appeal* (see Form 417A) or other notice filed and served by a debtor, this caption must be altered to include the debtor's address and Employer's Tax Identification Numbers (EIN), last four digits of Social Security numbers, or Individual Taxpayer Identification number (ITIN) as in Form 416A.]

Committee Note

Official Form 416D, *Caption for Use in Adversary Proceeding Other Than for a Complaint Filed by a Debtor*, applies on all forms where prescribed. Form 416D replaces Official Form 16D, *Caption for Use in Adversary Proceeding Other Than for a Complaint Filed by a Debtor*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Official Form 424
(12/15)

[Caption as described in Fed. R. Bankr. P. 7010 or 9004(b), as applicable]

Certification to Court of Appeals by All Parties

A notice of appeal having been filed in the above-styled matter on _____ [Date], _____, _____, and _____, [names of all the appellants and all the appellees, if any], who are all the appellants [and all the appellees] hereby certify to the court under 28 U.S.C. § 158(d)(2)(A) that a circumstance specified in 28 U.S.C. § 158(d)(2) exists as stated below.

Leave to appeal in this matter:

- is required under 28 U.S.C. § 158(a)
- is not required under 28 U.S.C. § 158(a).

[If from a final judgment, order, or decree] This certification arises in an appeal from a final judgment, order, or decree of the United States Bankruptcy Court for the _____ District of _____ entered on _____ [Date].

[If from an interlocutory order or decree] This certification arises in an appeal from an interlocutory order or decree, and the parties hereby request leave to appeal as required by 28 U.S.C. § 158(a).

[The certification shall contain one or more of the following statements, as is appropriate to the circumstances.]

The judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for this circuit or of the Supreme Court of the United States, or involves a matter of public importance.

Or

The judgment, order, or decree involves a question of law requiring resolution of conflicting decisions.

Or

An immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken.

[The parties may include or attach the information specified in Rule 8001.]

Signed: [If there are more than two signatories, all must sign and provide the information requested below. Attach additional signed sheets if needed.]

Attorney for Appellant (or
Appellant, if not represented
by an attorney):

Printed name of signer:

Address:

Telephone number:

(____) _____ - _____

Date:

____/____/____
MM / DD / YYYY

____/____/____
MM / DD / YYYY

Committee Note

Official Form 424, *Certification to Court of Appeal by All Parties* replaces Official Form 24, *Certification to Court of Appeal by All Parties*. It is revised as part of the Forms Modernization Project, and includes stylistic changes throughout the form.

Instructions

For Bankruptcy Forms for Non-Individuals

U.S. Bankruptcy Court

|

December 2015

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General Instructions

This document provides instructions for completing selected forms that entities other than individuals and municipalities filing for bankruptcy must submit to the U.S. Bankruptcy Court. All of the required forms can be downloaded without charge from:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

The instructions are designed to accompany the forms and are intended to help in understanding what information is required to properly file. The representatives of the debtor working on the forms should review each form and any pertinent instructions before supplying the information for each form.

Although the forms often parallel how businesses commonly keep their financial records, it is not always possible to do so

because information needed in a bankruptcy case is often different from that prescribed under generally accepted accounting principles. These instructions highlight some of the differences between the bankruptcy documents and accounting records. The debtor must provide all information required.

These instructions are not a substitute for legal advice about bankruptcy and the required forms. Completing the forms is only a part of the bankruptcy process.

Non-individual debtors must have an attorney to file for bankruptcy. Although the attorney may prepare the forms using information supplied by the debtor, representatives of the debtor must ensure that the forms are accurate and complete and must sign the forms under penalty of perjury.

Read This Important Warning

Non-individual debtors must be represented by an attorney.

Bankruptcy can have serious long-term financial and legal consequences, including loss of property. Only an attorney can give legal advice regarding the possible consequences of filing for bankruptcy and the various options that are available.

Entities may not file bankruptcy if they are not eligible to file or do not intend to file the documents necessary to complete the bankruptcy.

Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Overview of the bankruptcy forms and filing bankruptcy

Use the forms in the 200 series if the debtor is a non-individual, such as a corporation, partnership, or limited liability company (LLC). Forms in the 100 series are used by individuals or married couples. Sole proprietors must use the forms in the 100 series.

When a bankruptcy petition is filed, the U.S. Bankruptcy Court opens a case. It is important that the answers to the questions on the forms be complete and accurate so that the case proceeds smoothly. A person who gives false information in connection with a bankruptcy case could be charged with a federal crime, and the debtor may lose the benefits of filing for bankruptcy.

Filing a bankruptcy case is not private. Anyone has a right to see a debtor's bankruptcy forms after the debtor files them. In some circumstances, the bankruptcy court may issue a protective order to keep trade secrets or other confidential proprietary information from being disclosed to the public. 11 U.S.C. § 107 and Bankruptcy Rule 9037.

Follow these privacy restrictions

- Do not list a minor child's full name on any form. Instead, fill in only the child's initials and the full name and address of the child's parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Bankruptcy Rules 1007(m) and 9037.
- Do not list a person's date of birth.
- Do not list anyone's full Social Security number on any form.

Understand the terms used in the forms

To understand terms used in the forms and the instructions, see the *Glossary* at the end of this document.

Things to remember when filling out and filing these forms

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to the form. On the top of any pages added, write the debtor's name and case number, if known. Also identify the form and line number to which the additional information applies.
- Do not file these instructions with the bankruptcy forms that the debtor files with the court.
- For the debtor's records, be sure to keep a copy of the debtor's bankruptcy documents and all attachments that the debtor files.

Filing amended forms

Check the box on the top of the form to show that the debtor is submitting an amendment.

On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debt is from a credit card, fill in the month and year of the first and last transactions, if known.

About the Process for Filing a Bankruptcy Case for Non-Individuals

To file for bankruptcy, the debtor must give the court several forms and documents. Some must be filed at the time the debtor files the case. Others may be filed up to 14 days later.

When the debtor files its bankruptcy case

The debtor must pay the entire filing fee when the case is filed. The debtor must file the forms listed below on the date the debtor files its bankruptcy case. For copies of the forms listed here, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

- ❑ *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201). This form opens the case. Directions for completing it are included in the form itself.
- ❑ *A list of names and addresses of all of the debtor's creditors*, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files. (The bankruptcy court may call this a *creditor matrix* or *mailing matrix*.)
- ❑ *Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against Debtor and Are Not Insiders* (Official Form 204). Fill out this form only if the debtor files under chapter 11.
- ❑ *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A). This form is filed only by non-individual debtors who file under chapter 11 and who are required to file periodic reports (for example, Forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

When the debtor files its bankruptcy case or within 14 days after filing

The debtor must file the forms listed below with its *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201) or within 14 days, or such additional time as the court may order, after filing. If the debtor does not do so, the case may be dismissed. Although it is possible to open a case by submitting only the documents listed under *When the debtor files its bankruptcy case*, the debtor should file the entire set of forms at one time to help its case proceed smoothly.

The debtor must fill out all of the forms completely even though some forms may ask similar questions.

The list below identifies the documents that all non-individuals must file as well as those that are specific to each chapter. For copies of the official forms, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

All non-individuals who file for bankruptcy must file these forms and the forms for the specific chapter:

- ❑ *Schedules of Assets and Liabilities* (Official Form 206) which includes these forms:
 - ❑ *Schedule A/B: Real and Personal Property* (Official Form 206A/B)
 - ❑ *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
 - ❑ *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
 - ❑ *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
 - ❑ *Schedule H: Codebtors* (Official Form 206H)
 - ❑ *Summary of Assets and Liabilities for Non-Individuals* (Official Form 206Sum). This form gives an overview of the totals on the schedules.
- ❑ *Declaration Under Penalty of Perjury for Non-Individual Debtors* (Official Form 202–Declaration)
- ❑ *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207)
- ❑ *Disclosure of Compensation to Debtor’s Attorney* — Unless local rules provide otherwise, Director’s Form 2030 may be used.
- ❑ Statement of current income and current expenditures — Unless local rules provide otherwise, debtors may use *Schedule I/J: Monthly Receipts and Disbursements of Non-Individual Debtors Where Current Accounting Statements Are Unavailable* (Form 2060 I/J)

If a small business debtor files under chapter 11, the debtor must also file:

If the debtor files under chapter 11 and meets the criteria and debt limits outlined in 11 U.S.C. § 101(51D), the debtor qualifies as a small business debtor and must file with the petition its most recent

- ❑ balance sheet,
- ❑ statement of operations,
- ❑ cash-flow statement, and
- ❑ federal income tax return.

If the debtor does not have these documents, the debtor must file a statement made under penalty of perjury that the debtor has not prepared either a balance sheet, statement of operations, or cash-flow statement or the debtor has not filed a federal tax return.

Instructions for Selected Forms

Schedule A/B: Real and Personal Property (Official Form 206A/B)

Schedule A/B: Assets – Real and Personal Property (Official Form 206A/B) requires debtors to list most of the property interests that are involved in a bankruptcy case. All debtors filing for bankruptcy must honestly list everything they own or in which they have a legal, equitable, or future interest. *Legal, equitable, or future interest* are broad terms and include all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

The information in this form is grouped by asset category and, in general, follows the layout and order of liquidity found in a balance sheet. Examples are included for some items and are meant to give debtors an idea of what to include in the categories. The examples are not intended to be complete lists of everything within that category.

An authorized representative of the debtor must verify under penalty of perjury that the information provided is true and correct. Bankruptcy Rule 1008.

If the debtor makes a false statement or conceals property, the debtor may lose the property, be fined up to \$500,000, or be imprisoned for up to 20 years or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Understand the terms used in this form

Current value

In this form, the debtor must report the *current value of the debtor's interest* in any property that it owns in each category. *Current value* is sometimes called *fair market value* and, for this form, it is the fair market value as of the date of filing the bankruptcy petition. *Current value* is how much the property is currently worth, which may be more or less than the amount the debtor paid for the property or the book value of the property.

Valuation method used for current value

In certain asset categories, the debtor must also provide the valuation method used to calculate the current value. Select a reasonable method that provides an accurate estimation of current value.

Examples of valuation methods may include:

- **Appraisal** (provide the date the appraisal was conducted);
- **Comparable sales** (for example, blue-book values or comparable sales provided by a broker);
- **Revenue-based** (for example, present value of revenue streams calculated for a hotel or apartment complex based on rents and available rooms);

- **Liquidation value** (for example, the price of the property when it is not allowed sufficient time to sell in the open market—this figure is typically provided by a professional);
- **Expert** (for example, an accountant or advisor who has special expertise with regard to the property);
- **Replacement value** (the cost of replacing the property);
- **Tax records** (for example, the value assessed on the property by the county appraisal);
- **Recent cost-based valuations** (for example, first-in first-out inventory valuation method).

Net book value of debtor’s interest (where available)

If the debtor does not prepare a balance sheet for its financial records or for its tax returns, then it does not need to provide information in this column.

If the debtor prepares a balance sheet for its financial records or for its tax returns, then it must also provide the *net book value of debtor’s interest* for certain types of property. For purposes of this form, use the book value reported on the most recent balance sheet prepared before filing this case.

Net book value is the carrying value of an asset on the debtor’s books or financial records and is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

Depreciation and amortization expenses are calculated using accounting procedures that allocate the cost of certain property over its useful life. It represents the decline in value over time due to wear and tear, obsolescence, or other factors.

How to list items on this form

- List items only once on this form; do not list an item in more than one category. If an item could fit into more than one category, select the category the debtor thinks is the most suitable and list the item there. For example, a car dealership may report vehicles under *Part 4: Inventory* instead of under *Part 8: Machinery, equipment, and vehicles*.
- List property held for resale in *Part 4: Inventory*. If the debtor separates manufactured items into raw materials, work in progress, and finished goods, report those items in the categories provided as appropriate. If the debtor only purchases items and holds them for resale and does not do any manufacturing, then report the items under finished goods, not as raw materials or work in progress.
- The values reported on this form must match the values reported on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- In Schedule A/B, list any executory contracts or unexpired lease contracts that have a net value (for example, an unexpired lease for a building, a real estate listing agreement, or leases for machinery or equipment). Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)

The people or organizations to whom the debtor owes money are called its *creditors*. A *claim* is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with secured claims may be able to get paid from specific property in which that creditor has a security interest, such as a mortgage or a lien. That property is sometimes called *collateral* for the debt. Creditors with unsecured claims do not have rights against specific property.

Claims may be contingent, unliquidated, or disputed

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the bankruptcy petition is filed. All claims must be listed in the schedules, even if they are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the bankruptcy petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been determined.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

Do not omit any secured creditors

In alphabetical order, list all creditors that have judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and purchase money security interests or other consensual liens against property of the debtor. These categories can be used to describe the lien.

The form is divided into parts. List a debt in Part 1 only once and list any other entities that should be notified about that debt in Part 2. For example, if an attorney is trying to collect a debt that the debtor owes to someone else, list the person to whom the debtor owes the debt in Part 1 and list the attorney in Part 2. If the case is a chapter 11 case and the amount of the creditor's unsecured claim in Column C makes it one of the 20 largest unsecured creditors, the creditor must also be included on *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Who Are Not Insiders* (Official Form B204).

Determine the amount of each secured creditor’s claim or claims

To determine the amount of a secured claim, compare the amount of the claim to the value of the debtor’s interest in the property that is collateral for the claim. If that value is greater than the amount of the claim, then the entire amount of the claim is *secured*.

If the value of the property that is collateral for the claim is less than the amount of the claim, the difference is *unsecured*.

For example, if the outstanding balance due on an equipment loan is \$100,000 and the equipment is worth \$80,000, the lender has a secured claim of \$80,000 and an unsecured claim of \$20,000. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D). Do not list the creditor again on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F). In addition, if the case is a chapter 11 case and the creditor’s unsecured claim makes it one of the 20 largest unsecured creditors, the creditor must also be included on *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Who Are Not Insiders* (Official Form 204).

List a creditor in Schedule D even if it appears that no value exists to support that creditor’s secured claim, as long as the creditor has a security interest in some property owned by the debtor. If the claim is secured only by property owned by a non-debtor, list the claim in Schedule E/F.

If there is more than one secured claim against the same property, the amount of the claim that is entitled to be paid first must be subtracted from the property value to determine how much value remains for the next claim.

For example, if a building worth \$300,000 has a first mortgage of \$200,000 and a second mortgage of \$150,000, the first mortgage would be fully secured, and there would be \$100,000 of property value for the second mortgage, and the claim secured by the second mortgage would have an unsecured portion of \$50,000.

\$300,000	value of a building
- \$200,000	first mortgage
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	remaining property value
\$ 50,000	unsecured portion of second mortgage claim

Show the amount of any unsecured portion of a secured claim on Schedule D in Column C.

Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)

The people or organizations to whom the debtor owes money are called its *creditors*. A claim is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with unsecured claims typically do not have liens on or other security interests in the debtor's property.

Use *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F) to identify everyone who holds an unsecured claim against the debtor as of the date the bankruptcy petition is filed unless that creditor is already listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

Creditors with secured claims have a right to take property from the debtor if the debtor does not pay them. They should be listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

If a secured creditor's full claim exceeds the value of the property securing that claim, the creditor may have a secured claim for the value of the property and an unsecured claim for the deficiency. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D). Do not list the creditor again on

Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F).

List a creditor in Schedule D even if it appears that no value exists to support that creditor's secured claim.

Claims may be contingent, unliquidated, or disputed

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the date the bankruptcy petition is filed. All claims, whether they are certain or uncertain as of the date of the filing, must be listed in the schedules, even if the claims are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been set.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

Unsecured claims may be either priority or nonpriority claims

What are priority unsecured claims?

In bankruptcy cases, *priority unsecured claims* are those debts that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common priority unsecured claims are certain tax debts. Priority unsecured claims include those the debtor owes for:

- **Taxes and certain other debts owed to the government**—If the debtor owes certain federal, state, or local government taxes, customs duties, or penalties.
11 U.S.C. § 507(a)(8).
- **Wages, salaries, and commissions**—If the debtor owes wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before the bankruptcy petition was filed or the debtor ceased business. In either instance, only the first \$12,475 per claim is a priority claim.*
11 U.S.C. § 507(a)(4).
- **Contributions to employee benefit plans**—If the debtor owes contributions to an employee benefit plan for services an employee rendered within 180 days before the bankruptcy petition was filed, or within 180 days before the debtor ceased business. Only the first \$12,475 per employee, less any amounts owed for wages, salaries, and commissions, is a priority claim.*
11 U.S.C. § 507(a)(5).
- **Certain claims of farmers and fishermen**—Only the first \$6,150 per farmer or fisherman is a priority claim.* 11 U.S.C. § 507(a)(6).

* Subject to adjustment on 4/1/16, and every 3 years after that for cases begun on or after the date of adjustment.

- **Deposits by individuals** — If the debtor obtained from an individual a deposit for the purchase, lease, or rental of property or services for the individual or the individual's family, the deposit may be a priority claim. Unredeemed gift certificates are deposits. The priority is limited to \$2,775.*
11 U.S.C. § 507(a)(7).

Other categories exist.

What are nonpriority unsecured claims?

Nonpriority unsecured claims are those debts that generally will be paid after priority unsecured claims are paid. The most common examples of nonpriority unsecured claims are trade debts, bank loans, contract obligations, and fees for professional services.

In Part 2, list every creditor owed money by the debtor not listed before, regardless of the amount and even if the debtor plans to pay a particular debt.

What if a claim has both priority and nonpriority amounts?

If a claim has both priority and nonpriority amounts, list that claim in Part 1 and show both priority and nonpriority amounts. Do not list it again in Part 2.

On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debtor has a line of credit with multiple draws, fill in the month and year of the first and last transactions, if known.

Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)

Use *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G) to identify the debtor's ongoing leases and certain contracts. List all of the debtor's executory contracts and unexpired leases.

Executory contracts are contracts between the debtor and another party in which neither party has performed all of the requirements by the time the debtor files for bankruptcy. *Unexpired leases* are leases that are still in effect.

The debtor must list all agreements that may be executory contracts or unexpired leases, even if they are listed on *Schedule A/B: Property* (Official Form 206A/B) or *Schedule E/F: Creditors Who Have Unsecured Claims*, (Official Form 206 E/F) including the following:

- Equipment leases;
- Vehicle leases;
- Leases for business or investment property (for example, office or warehouse space);
- Contracts to sell a building, land, or other real property;

- Service provider agreements (for example, maintenance contracts for office equipment, and contracts for cell phones, personal electronic devices, internet, and cable);
- Sales contracts;
- Supplier or service contracts;
- Leases or timeshare contracts;
- Employment contracts;
- Real estate listing agreements;
- Intellectual property license agreements (such as copyright, patent, trademark, and industrial rights);
- Development contracts; and
- Insurance contracts.

State the contract number of any government contract.

Glossary

Definitions Used in the Forms for Non-Individuals Filing for Bankruptcy

Here are definitions for some of the important terms used in the forms for non-individuals who are filing for bankruptcy. See *Bankruptcy Basics* (<http://www.uscourts.gov/FederalCourts>) for more information about filing for bankruptcy and other important terms.

Affiliate — As used in the Bankruptcy Code and Rules, an affiliate of the debtor is:

- (a) an entity that directly or indirectly owns, controls, or holds with power to vote at least 20% of the outstanding voting securities of the debtor (excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (b) a corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the debtor (again excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (c) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or
- (d) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

Amortization — 1. A non-cash accounting method that allocates the cost of an intangible asset over its useful life. 2. Paying off a liability in regular installments over a period of time.

Amortization schedule — A report that contains a listing of intangible assets and the amount of amortization and accumulated amortization that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

Annuity — A contract for the periodic payment of money, either for the life of the recipient or for a fixed number of years.

Book value or **net book value** — The carrying value of an asset on the debtor's books or financial records. This amount is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

Causes of action — Claims where the debtor is entitled to money or other relief from a third party or where a third party is entitled to money or other relief from the debtor.

Claim — A creditor’s right to payment, even if contingent, disputed, unliquidated, or unmatured.

Codebtor — A person or entity that may also be responsible for paying a claim against the debtor.

Collateral — Property that secures a debt.

Contingent claim — Debt that is only payable if certain events occur.

Creditor matrix or mailing matrix — A list of names and addresses of all of the debtor’s creditors, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files the case.

Creditor — The person or organization to whom the debtor owes money.

Current value or fair market value — how much the property is worth, which may be more or less than the purchase price or the book value. See the instructions for specific forms regarding whether the value requested is as of the date of the filing of the petition, the date the debtor completes the form, or some other date.

Debt — Liability on a claim.

Depreciation — A non-cash accounting method that allocates the cost of a tangible asset over its useful life.

Depreciation schedule — A report that contains a listing of tangible assets and the amount of depreciation and accumulated depreciation that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

Discharge — A discharge in bankruptcy relieves a debtor from having to pay certain debts. For non-individuals, it applies only in certain chapter 11 and chapter 12 cases.

Disputed claim — A claim about which there is a disagreement. A claim is disputed if the debtor disagrees about either the validity or amount of the claim.

Doubtful or uncollectible accounts — Receivables that the debtor has little or no expectation of collecting. This amount is deducted from total receivables to calculate the amount that the debtor reasonably expects will be collected on its receivables.

Executory contract — Contract between the debtor and another party as to which neither the debtor nor the other party has performed all of the requirements by the time the bankruptcy case is filed.

Goodwill — Amount of a purchase price that exceeds the net tangible assets. It can also be the value of an intangible asset that has a quantifiable value in business. Examples include a strong brand or reputation or, in an acquisition, goodwill.

Gross income — A company's gross revenue minus cost of goods sold.

Gross revenue — Amount generated by all of a company's operations before deductions for expenses.

Insider — Insiders include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of a debtor and insiders of such affiliates, and any managing agent of a debtor.
11 U.S.C. § 101.

Intangible assets — Types of property that are not physical in nature and cannot be touched, seen, or held. Examples include intellectual property and name recognition.

Intellectual property — An intangible asset that consists of human knowledge and ideas. Examples include patents, copyrights, trademarks, and software.

Legal or equitable interest — Any interest of the debtor in both tangible and intangible property, whether or not anyone other than the debtor also has an interest in that property.

Lien — A charge against or interest in property to secure a debt.

Nature of claim — The legal type of a claim, not the factual basis for it. Examples include breach of contract, personal injury, malpractice, and fraud.

Negotiable instrument — A written and signed unconditional promise or order to pay a specified sum of money on demand or at a definite time payable to order or bearer. Negotiable instruments include government bonds, corporate bonds, personal checks, cashiers' checks, promissory notes, and money orders.

Net operating loss (NOL) — Occurs when allowable tax deductions exceed taxable income, resulting in negative taxable income. NOLs can generally be used to recover past tax payments (*carry-back*) or reduce future tax payments (*carry-forward*).

Non-individual debtor — A non-individual entity such as a corporation, partnership, or limited liability company (LLC), on whose behalf or against whom a bankruptcy case is filed.

Non-negotiable instrument — Financial instrument of the debtor that cannot be transferred to another party by signing or delivering it.

Nonpriority unsecured claim — Debt that generally will be paid after priority unsecured claims are paid. Examples include amounts due for products purchased, professional services, and utilities.

Priority unsecured claim — Debt that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. Examples include certain income tax debts and certain employee wage claims.

Secured claim — A claim that may be satisfied in whole or in part either

- through collateral,
- through a charge against or an interest in the debtor's property, or
- through a right of setoff.

Setoff — Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor. The Bankruptcy Code gives the trustee power to avoid some but not all setoffs that are made pre-petition.

Sole proprietorship — A business that a debtor owns as an individual, rather than a separate legal entity such as a corporation, partnership, or LLC. Sole proprietors must use the bankruptcy forms in the 100 series.

Tangible asset — Types of property that have physical form and can be seen, touched, or held. Examples include cash, machinery, buildings, and land.

Unexpired lease — Lease that is in effect at the time the bankruptcy petition is filed.

Unliquidated claim — A debt for which the amount cannot be readily determined, such as by referring to an agreement or by a simple computation. For instance, an unliquidated claim would arise from the debtor's sale of a defective product if the amount of damage it caused has not been determined.

!!COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
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EVIDENCE RULES

MEMORANDUM

**TO: Hon. Jeffrey S. Sutton, Chair
Committee on Rules of Practice and Procedure**

**FROM: Hon. David G. Campbell
Advisory Committee on Civil Rules**

RE: Report of Advisory Committee on Civil Rules

DATE: May 2, 2014 (revised June 26, 2014)

Introduction

The Civil Rules Advisory Committee met at the Lewis & Clark Law School in Portland, Oregon, on April 10-11, 2014.

* * * * *

Part IIA presents the recommendation to publish an amendment that deletes the provision in Rule 6(d) that allows 3 added days to respond after service by electronic means. The recommendation was approved last January. It is presented here to complete the package of parallel amendments proposed for publication by the Appellate, Bankruptcy, and Criminal Rules Committees.

Part IIB presents for action a recommendation to approve publication of an amendment of Rule 4(m) to make it clear that service on a foreign corporation outside any judicial district of the United States is exempt from Rule 4(m) time limits.

Part IIC presents for action a recommendation to approve for publication a revised rule text that seeks to better accomplish the purpose of a Rule 82 amendment that was approved for publication, subject to further consideration of the rule text, at the January, 2014 Standing Committee meeting.

II. RECOMMENDATIONS TO APPROVE FOR PUBLICATION

II.A. RULE 6(d): 3 DAYS ARE ADDED: E-SERVICE

An amendment of Rule 6(d) was approved for publication last January. The amendment is part of a package of proposals to amend other sets of rules to delete the provision that allows 3 added days to respond after service by electronic means. The parallel proposals are included in the reports of the Advisory Committees for the Appellate, Bankruptcy, and Criminal Rules. Rule 6(d) is set out here in order to complete the package:

1 **Rule 6. Computing and Extending Time; Time for Motion Papers * * ***

2 **(d) Additional Time After Certain Kinds of Service.** When a party may or must act within
3 a specified time after being served¹ and service is made under Rule 5(b)(2)(C)(mail), (D)(leaving
4 with the clerk), (~~E~~); or (F)(other means consented to), 3 days are added after the period would
5 otherwise expire under Rule 6(a).

6 Committee Note

7 Rule 6(d) is amended to remove service by electronic means under Rule 5(b)(2)(E) from the
8 modes of service that allow 3 added days to act after being served.

9 Rule 5(b)(2) was amended in 2001 to provide for service by electronic means. Although
10 electronic transmission seemed virtually instantaneous even then, electronic service was included
11 in the modes of service that allow 3 added days to act after being served. There were concerns that
12 the transmission might be delayed for some time, and particular concerns that incompatible systems
13 might make it difficult or impossible to open attachments. Those concerns have been substantially
14 alleviated by advances in technology and in widespread skill in using electronic transmission.

15 A parallel reason for allowing the 3 added days was that electronic service was authorized
16 only with the consent of the person to be served. Concerns about the reliability of electronic
17 transmission might have led to refusals of consent; the 3 added days were calculated to alleviate
18 these concerns.

19
20 Diminution of the concerns that prompted the decision to allow the 3 added days for
21 electronic transmission is not the only reason for discarding this indulgence. Many rules have been
22 changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow
23 “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the
24 occasions for further complication by invoking the provisions that apply when the last day is a
25 Saturday, Sunday, or legal holiday.

¹This anticipates adoption of the proposed amendment published in August, 2013.

26 Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow 3 added days
27 means that the 3 added days cannot be retained by consenting to service by electronic means.
28 Consent to electronic service in registering for electronic case filing, for example, does not count as
29 consent to service “by any other means” of delivery under subparagraph (F).

II.B. RULE 82: ADMIRALTY VENUE

The Standing Committee acted in January to approve publication at a suitable time of a proposal to amend the second sentence of Civil Rule 82 to reflect the enactment of a new venue statute for civil actions in admiralty. It was agreed then that the message transmitting the proposal for publication should ask whether to delete the cross-reference to 28 U.S.C. § 1391, an issue explained below. Further reflection before publication suggests that indeed § 1391 should be dropped from the rule text, and that the text should be further revised to reflect the adoption of new 28 U.S.C. § 1390. The version recommended for publication is set out below, along with an explanation of the reasons for preferring this approach.

Proposed Rule 82

1 **82. Jurisdiction and Venue Unaffected**

2 These rules do not extend or limit the jurisdiction of the district courts or the venue of actions
3 in those courts. An admiralty or maritime claim under Rule 9(h) is governed by 28 U.S.C. § 1390
4 ~~not a civil action for purposes of 28 U.S.C. §§ 1391-1392.~~

5 Committee Note

7 Rule 82 is amended to reflect the enactment of 28 U.S.C. § 1390 and the repeal of § 1392.

Discussion

It has long been understood that the general venue statutes do not apply to actions in which the district court exercises admiralty and maritime jurisdiction, except that the transfer provisions do apply. This proposition could become ambiguous when a case either could be brought in the admiralty or maritime jurisdiction or could be brought as an action at law under the “saving to suitors” clause. Rule 82 has addressed this problem by invoking Rule 9(h) to ensure that the Civil Rules do not seem to modify the venue rules for admiralty or maritime actions. Rule 9(h) provides that a claim cognizable only in the admiralty or maritime jurisdiction is an admiralty or maritime claim for purposes of Rule 82. Rule 9(h) further provides that if a claim for relief is within the admiralty or maritime jurisdiction but also is within the court’s subject-matter jurisdiction on some other ground, the pleading may designate the claim as an admiralty or maritime claim.

The occasion for amending Rule 82 arises from legislation that added a new § 1390 to the venue statutes and repealed former § 1392 (local actions). The reference to § 1392 must be deleted from Rule 82. And it is likely appropriate to add a reference to new § 1390 for reasons that are only slightly more complicated. Deleting the reference to § 1391 also is appropriate.

New § 1390(b) provides:

(b) Exclusion of Certain Cases.— Except as otherwise provided by law, this chapter shall not govern the venue of a civil action in which the district court exercises the jurisdiction conferred by section 1333, except that such civil actions may be transferred between district courts as provided in this chapter.

Section 1333 establishes “original jurisdiction, exclusive of the courts of the States, of: (1) Any civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled.”

Section 1390(b), by referring to cases in which the court “exercises the jurisdiction conferred by section 1333,” thus ousts application of the general venue statutes for cases that can be brought only in the admiralty or maritime jurisdiction, and also for cases that might have been brought in some other grant of subject-matter jurisdiction but that have been designated as admiralty or maritime claims under Rule 9(h).

The proposed amendment carries forward the purpose of integrating Rule 9(h) with the venue statutes through Rule 82. It is appropriate to refer to all of § 1390, not subsection (b) alone, because § 1390(a) provides a general definition of venue, while subsection (c) addresses transfer of an action removed from a state court.

The statement in present Rule 82 that an admiralty or maritime claim is not a civil action cannot be carried forward. This drafting was adopted in 1966 when the admiralty rules were merged with the civil rules. Rule 1 was amended to state that the rules govern “in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty.” Rule 2, then as now, stated that there is one form of action — the civil action. The Committee Note to Rule 82 said that by virtue of Rules 1 and 2, suits in admiralty have been converted to civil actions. So Rule 82 was amended to provide that an action that includes a claim designated for admiralty or maritime jurisdiction under Rule 9(h) is not a civil action for purposes of what then were §§ 1391-1393. That avoided disruption of the settled interpretation that those general venue statutes did not apply to admiralty claims.

The difficulty with carrying forward the 1966 exception to the general status of admiralty claims as civil actions is that new § 1390(b) twice describes the exercise of admiralty jurisdiction in “a civil action.” To say that a Rule 9(h) claim is not a civil action for purposes of § 1390 would be to attempt to take the claim outside of § 1390, the opposite of the intended accommodation.

Nor is there any apparent need to continue to refer to § 1391. Section 1390(b) takes care of that.

II.C. RULE 4(m): SERVING A CORPORATION ABROAD

The Committee recommends publication of a clarifying amendment to ensure that service abroad on a corporation is excluded from the time for service set by Rule 4(m). Several of the comments on the version of Rule 4(m) published for comment as part of the Duke Rules Package in August 2013 suggest that many lawyers believe the Rule 4(m) limit applies. There is no apparent

reason to believe that service abroad can be accomplished more expeditiously when the defendant is a corporation, not an individual. And the need for extra time will increase with adoption of the proposal to reduce the time from 120 days to 90 days.

1 **Rule 4. Summons * * ***

2 **(m) Time Limit for Service.** * * * This subdivision (m) does not apply to service in a
3 foreign country under Rule 4(f), 4(h)(2), or 4(j)(1) * * *.

4 **Committee Note**

5 Rule 4(m) is amended to correct a possible ambiguity that appears to have generated some
6 confusion in practice. Service in a foreign country often is accomplished by means that require more
7 than the 120 days originally set by Rule 4(m)[, or than the 90 days set by amended Rule 4(m)]. This
8 problem is recognized by the two clear exceptions for service on an individual in a foreign country
9 under Rule 4(f) and for service on a foreign state under Rule 4(j)(1). The potential ambiguity arises
10 from the lack of any explicit reference to service on a corporation, partnership, or other
11 unincorporated association. Rule 4(h)(2) provides for service on such defendants at a place outside
12 any judicial district of the United States “in any manner prescribed by Rule 4(f) for serving an
13 individual, except personal delivery under (f)(2)(C)(i).” Invoking service “in the manner prescribed
14 by Rule 4(f)” could easily be read to mean that service under Rule 4(h)(2) is also service “under”
15 Rule 4(f). That interpretation is in keeping with the purpose to recognize the delays that often occur
16 in effecting service in a foreign country. But it also is possible to read the words for what they seem
17 to say — service is under Rule 4(h)(2), albeit in a manner borrowed from almost all, but not quite
18 all, of Rule 4(f).

19 The amendment resolves this possible ambiguity.

Discussion

The Committee Note explains the proposal. Many of the comments on the 2013 proposal to reduce the time for service under Rule 4(m) argued that more time is needed for service in a foreign country, indeed that even 120 days often is not enough. These comments make sense only on the assumption that service under Rule 4(h)(2) is not exempt from the Rule 4(m) time limit. Among the comments, the comment from the New York City Bar Association notes the ambiguity and expressly recommends that Rule 4(h)(2) be added to the list of exceptions from Rule 4(m). There is no apparent reason to avoid the change. But publication may reveal complications that either defeat the whole proposal or require additional qualifications. If for some unforeseen reason it comes to seem desirable to subject service under Rule 4(h)(2) to the time limits of Rule 4(m), a nice question will be presented: how should the rule text be amended to clarify the ambiguity by going the other way? “This subdivision (m) applies to service outside any judicial district of the United States under Rule 4(h)(2), but does not apply to * * *”? (Any passing regret about the inability to revise a Committee Note without revising rule text is assuaged by reflecting that revising the Committee Note alone would alleviate the ambiguity only after an accumulation of cases, probably over a period of many years, pointing out the new approach.)

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF CIVIL PROCEDURE***

1 **Rule 4. Summons**

2 * * * * *

3 **(m) Time Limit for Service.** If a defendant is not served
4 within 90¹ days after the complaint is filed, the
5 court^{3/4} on motion or on its own after notice to the
6 plaintiff^{3/4} must dismiss the action without prejudice
7 against that defendant or order that service be made
8 within a specified time. But if the plaintiff shows
9 good cause for the failure, the court must extend the
10 time for service for an appropriate period. This
11 subdivision (m) does not apply to service in a foreign
12 country under Rule 4(f), 4(h)(2), or 4(j)(1).

* New material is underlined in red; matter to be omitted is lined through.

¹ This wording reflects the proposed amendment published in August 2013.

* * * * *

Committee Note

Rule 4(m) is amended to correct a possible ambiguity that appears to have generated some confusion in practice. Service in a foreign country often is accomplished by means that require more than the 120 days originally set by Rule 4(m)[, or than the 90 days set by amended Rule 4(m)]. This problem is recognized by the two clear exceptions for service on an individual in a foreign country under Rule 4(f) and for service on a foreign state under Rule 4(j)(1). The potential ambiguity arises from the lack of any explicit reference to service on a corporation, partnership, or other unincorporated association. Rule 4(h)(2) provides for service on such defendants at a place outside any judicial district of the United States “in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).” Invoking service “in the manner prescribed by Rule 4(f)” could easily be read to mean that service under Rule 4(h)(2) is also service “under” Rule 4(f). That interpretation is in keeping with the purpose to recognize the delays that often occur in effecting service in a foreign country. But it also is possible to read the words for what they seem to say—service is under Rule 4(h)(2), albeit in a manner borrowed from almost all, but not quite all, of Rule 4(f).

The amendment resolves this possible ambiguity.

1 **Rule 6. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 **(d) Additional Time After Certain Kinds of Service.**

5 When a party may or must act within a specified time
6 after being served² and service is made under
7 Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk),
8 ~~(E)~~, or (F) (other means consented to), 3 days are
9 added after the period would otherwise expire under
10 Rule 6(a).

Committee Note

Rule 6(d) is amended to remove service by electronic means under Rule 5(b)(2)(E) from the modes of service that allow 3 added days to act after being served.

Rule 5(b)(2) was amended in 2001 to provide for service by electronic means. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that

² This wording reflects the proposed amendment published in August 2013.

allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow 3 added days means that the 3 added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means” of delivery under subparagraph (F).

1 **Rule 82. Jurisdiction and Venue Unaffected**

2 These rules do not extend or limit the jurisdiction of the
3 district courts or the venue of actions in those courts. An
4 admiralty or maritime claim under Rule 9(h) is governed by
5 28 U.S.C. ' 1390 ~~not a civil action for purposes of 28 U.S.C.~~
6 ~~' 1391-1392.~~

Committee Note

 Rule 82 is amended to reflect the enactment of
28 U.S.C. ' 1390 and the repeal of ' 1392.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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EVIDENCE RULES

MEMORANDUM

**TO: Hon. Jeffrey S. Sutton, Chair
Committee on Rules of Practice and Procedure**

**FROM: Hon. Reena Raggi
Advisory Committee on Criminal Rules**

Subject: Report of the Advisory Committee on Criminal Rules

Date: May 5, 2014 (revised July 2014)

I. Introduction

The Advisory Committee on the Federal Rules of Criminal Procedure (“the Advisory Committee”) met on April 7-8, 2014, in New Orleans, Louisiana, and took action on a number of proposals.

* * * * *

This report presents three action items for Standing Committee consideration:

- (1) approval to publish a proposed amendment to Rule 4 (service of summons on organizational defendants); and
- (2) approval to publish a proposed amendment to Rule 41 (venue for approval of warrant for certain remote electronic searches); and
- (3) approval to publish a proposed amendment to Rule 45 (additional time after certain kinds of service).

* * * * *

II. Action Items—Recommendations to Publish for Public Comment

1. ACTION ITEM—Rule 4 (service of summons on organizational defendants)

The proposed amendment originated in an October 2012 letter from Assistant Attorney General Lanny Breuer, who advised the Committee that Rule 4 now poses an obstacle to the prosecution of foreign corporations that have committed offenses that may be punished in the United States. In some cases, such corporations cannot be served because they have no last known address or principal place of business in the United States. General Breuer emphasized the “new reality”: a truly global economy reliant on electronic communications, in which organizations without an office or agent in the United States can readily conduct both real and virtual activities here. He argued that this new reality has created a “growing class of organizations, particularly foreign corporations” that have gained “an undue advantage” over the government relating to the initiation of criminal proceedings.” The Department’s proposal was referred to a subcommittee which met multiple times by teleconference and proposed an amendment for consideration at the New Orleans meeting.

In New Orleans, the Committee unanimously approved a proposed amendment making the following changes in Rule 4:

- (1) It specifies that the court may take any action authorized by law if an organizational defendant fails to appear in response to a summons, filling a gap in the current rule.
- (2) For service of a summons on an organization within the United States, it:
 - eliminates the requirement of a separate mailing to an organizational defendant when delivery has been made to an officer or to a managing or general agent, but
 - requires mailing when delivery has been made on an agent authorized by statute, if the statute itself requires mailing to the organization.
- (3) It also authorizes service on an organization at a place not within a judicial district of the United States, prescribing a non-exclusive list of methods for service.

Following the meeting, the Committee unanimously approved style changes and slight changes in the committee note that were circulated electronically. The text of the proposed amendment and accompanying committee note are provided at Tab B.

A. Authorizing sanctions if an organizational defendant fails to appear

As a preliminary matter, the Committee identified a gap in the current rule concerning organizational defendants who fail to appear. Rule 4(a) presently provides that both individual and organizational defendants may be served with a summons. Although the rule provides for the issuance of an arrest warrant if an individual defendant fails to appear in response to a summons, it

is silent on the procedure to be followed if an organizational defendant fails to appear.

The Committee concluded that this omission should be addressed, and it proposes that the following sentence be added to the end of paragraph (a): “If an organizational defendant fails to appear in response to a summons, a judge may take any action authorized by law.”*

There is little precedent defining the actions that a court may take if an organizational defendant fails to appear. The Department of Justice emphasized that such cases have rarely arisen, and it anticipates that would continue to be the case if the proposed amendment is adopted. Foreign as well as domestic corporations have many incentives to appear and resolve criminal charges once service is made. Given the paucity of available authority, the Committee concluded it would be premature to attempt any determination of the scope of the courts’ authority to employ the sanctions identified by the government. By stating that the court has the authority to “take any action authorized by law” the amendment provides a framework for the courts to evaluate the scope of that authority if and when cases arise in which organizational defendants fail to appear after being served.

B. Restricting the Mailing Requirement When Delivery Is Made in the United States

The current mailing requirement in Rule 4(c)(3)(C) is a major impediment to prosecution of foreign entities, and the Committee agreed that the requirement is unnecessarily overbroad. At present, in every case involving an organizational defendant, the rule requires not only service by delivery to an agent but also mailing to the entity, which must be made “to the organization’s last known address within the district or to its principal place of business elsewhere in the United States.” Accordingly, it is not possible to serve a foreign entity—even one that conducts both real and virtual business within the United States—that has neither a principal place of business in the U.S. nor a known address within the district of prosecution.

The Committee’s proposed amendment follows the approach of the Civil Rule 4(h): it restricts the mailing requirement to cases in which service has been made on a statutorily appointed agent when the statute itself requires a mailing as well as personal service. Moreover, the proposed amendment does not restrict the address to which the mailing may be made.

C. Providing for Service of Organizational Defendants Outside the United States

At present, the Federal Rules of Criminal Procedure provide for service of an arrest warrant or summons only within a judicial district of the United States. Fed. R. Crim. P. 4(c)(2), which governs the location of service, states that an arrest warrant or summons may be served “within the jurisdiction of the United States.”¹ In contrast, Fed. R. Civ. P. 4(f) authorizes service on individual

* In order to clarify this provision, the Standing Committee added the phrase “United States.” The published rule states: “If an organizational defendant fails to appear in response to a summons, a judge may take any action authorized by United States law.”

¹ Fed. R. Crim. P. 4(c)(2) does provide, however, that service may also be made “anywhere else a federal statute authorizes an arrest.”

defendants in a foreign country, and Fed. R. Civ. P. 4(h)(2) allows service on organizational defendants as provided by Rule 4(f).²

Given the increasing number of criminal prosecutions involving foreign entities, the Subcommittee agreed that it would be appropriate for the Federal Rules of Criminal Procedure to provide a mechanism for foreign service on an organization, and it proposes the following addition to Rule 4(c)(2), which governs the location of service: “A summons under Rule 4(c)(3)(D) may also be served at a place not within a judicial district of the United States.”^{*} This general provision is implemented in the Subcommittee’s proposed amendment to Rule 4(c)(3), which governs the manner of service.

The Subcommittee’s proposal—like Fed. R. Civ. P. 4—enumerates a variety of methods of proper service, but also provides a more general provision authorizing other methods. New subdivision (c)(3)(D) authorizes several forms of service “on an organization not within a judicial district of the United States,”³ and it enumerates a non-exhaustive list of permissible means of service that provide notice to that defendant. Subdivision (i) notes that a foreign jurisdiction’s law may authorize delivery of a copy of the criminal summons to an officer, or to a managing or general agent. This is a permissible means of serving an organization outside of the United States, just as it is for organizations within the United States. The subdivision also recognizes that a foreign jurisdiction’s law may provide for service of a criminal summons by delivery to an appointed or legally authorized agent in a manner that provides notice to the entity, and states that this is an acceptable means of service.

Subdivision (ii) provides a non-exhaustive list illustrating other permissible means of giving service on organizations outside the United States, all of which must be carried out in a manner that “gives notice.”

Paragraph (a) recognizes that service may be made by a means stipulated by the parties.

Paragraph (b) recognizes that service may be made by the diplomatic methods of letters rogatory and letters of request, and the last clause of the paragraph provides for service under international agreements that obligate the parties to provide broad measures of assistance, including the service of judicial documents. These include crime-specific multilateral agreements, regional agreements, and bilateral agreements.

² Fed. R. Civ. P. 4(h)(2) provides, however, that service on an entity may not be made under Rule 4(f)(2)(c)(i) (delivery “to the individual personally”).

^{*} To clarify the cross reference, the Standing Committee added the phrase “to an organization.” The published rule states: “A summons to an organization under Rule 4(c)(3)(D) may also be served at a place not within a judicial district of the United States.”

³ Fed. R. Civ. P. 4(h) provides for service on a corporation “at a place not within any judicial district of the United States,” but the Subcommittee deliberately omitted the reference to service *at a place* outside a judicial district of the United States. Thus the new provision authorizes additional means of service on *organizations* that are not within a judicial district of the United States. Although the authorized means for such service would generally occur outside any U.S. judicial district, in some cases service by stipulation or service under the general catch-all provision might occur within a U.S. judicial district.

Paragraph (c) recognizes that other means of service that provide notice and are permitted by an applicable international agreement are also acceptable when serving organizations outside the United States.

The Committee viewed these methods as uncontroversial. Using these well-developed procedures should ordinarily provide notice to an organizational defendant. However, if notice has not been afforded in an individual case, the Committee Note recognizes that the defendant may later choose to raise a challenge on this basis. The Committee also concluded that the listed means of service posed neither concerns under the principles of international law nor institutional concerns. Service in a manner authorized by the foreign jurisdiction's law is respectful of that nation's sovereignty. The same is true of service that the foreign sovereign itself undertakes in response to the various types of requests identified in proposed subdivision (c)(3)(D)(ii)(b). Moreover, as described more fully in memoranda prepared for the Committee by the Department of Justice, the Criminal Division's Office of International Affairs will be involved in assisting individual prosecutors in determining which means of service will be most effective in individual cases, and will consult with the Department of State regarding any special concerns.

In addition to the enumerated means of service, the proposal contains an open-ended provision in (c)(3)(D)(ii) that allows service "by any other means that gives notice." This provision provides flexibility for cases in which the Department of Justice concludes that service cannot be made (or made without undue difficulty) by the enumerated means.⁴ One of the principal issues considered by the Committee was whether to require prior judicial approval of other means of service. Civil Rule 4(f)(3) provides for foreign service on an organization "by other means not prohibited by international agreement, as the court orders."(emphasis added). The Committee concluded the Criminal Rules should not require prior judicial approval before service of a criminal summons could be made in a foreign country by other unspecified means. In its view, a requirement of prior judicial approval might raise difficult questions of international law and the institutional roles of the courts and the executive branch.⁵

The Committee considered the possibility that in rare cases the Department of Justice might seek to make service under (c)(3)(D)(ii) in a foreign nation without its cooperation or consent. Representatives of the Department stated that such service would be made only as a last resort, and only after the Criminal Division's Office of International Affairs and representatives of the Department of State had considered the foreign policy and reciprocity implications of such an action. The Department also stressed the Executive Branch's primacy in foreign relations and its obligation

⁴ The Rule 4 Subcommittee considered and rejected a requirement that would have limited service under (D)(ii)(c) to cases in which service in a manner authorized by the foreign jurisdiction's law, undertaken by the foreign authority, or by stipulation was unavailable. The Subcommittee concluded that requiring the government to demonstrate that it had tried and failed to effect service in these ways it would impose unnecessary burdens and delays.

⁵ These issues would be raised most starkly by a request for judicial approval of service of criminal process in a foreign country without its consent or cooperation, and in violation of its laws. Fed. R. Civ. P. 4(f)(3) may permit such a request. Where there is no internationally agreed means of service prescribed, Fed. R. Civ. P. 4(f)(2) then authorizes service by various means, and Fed. R. Civ. P. 4(f)(3) provides for service by "any other means not prohibited by international agreement, as the court orders." Although Fed. R. Civ. P. 4(f)(2)(C) precludes service "prohibited by the foreign country's law," that restriction is absent from Fed. R. Civ. P. 4(f)(3).

to ensure that the laws are faithfully executed. Finally, the Department noted that the federal courts are not deprived of jurisdiction to try a defendant whose presence before the court was procured by illegal means. This principle was reaffirmed in United States v. Alvarez-Machain, 504 U.S. 655 (1992) (holding that abduction of defendant in Mexico in violation of extradition treaty did not deprive court of jurisdiction). Similarly, if service were made on an organizational defendant in a foreign nation without its consent, the court would not be deprived of jurisdiction. Under the Committee's proposal—which does not require prior judicial approval of the means of service—a court would never be asked to give advance approval of service contrary to the law of another state or in violation of international law.

The Committee noted that eliminating a requirement for prior judicial approval may also be preferable from the defense perspective. Prior judicial approval would place a defendant later challenging the effectiveness of the notice provided in a difficult position. In effect, the defendant would be asking the judge who approved the service to change her mind, rather than to consider a question of first impression.

Recommendation—The Advisory Committee recommends that the proposed amendment to Rule 4 be published for public comment.

2. ACTION ITEM—Rule 41 (venue for approval of warrant for certain remote electronic searches)

The proposed amendment (Tab C) provides that in two specific circumstances a magistrate judge in a district where the activities related to a crime may have occurred has authority to issue a warrant to use remote access to search electronic storage media and seize or copy electronically stored information even when that media or information is or may be located outside of the district. The proposed amendment was unanimously approved by the Committee in New Orleans. Following the meeting, the reporters circulated style changes and new language for the Committee note, which were unanimously approved by an electronic vote.

The proposed amendment had its origins in a letter from Acting Assistant Attorney General Mythili Raman. The proposal was referred to a subcommittee, which held multiple telephone conference calls before approving a proposal to amend Rule 41(b)(6).

The proposal has two parts. The first change is an amendment to Rule 41(b), which generally limits warrant authority to searches within a district,⁶ but permits out-of-district searches in specified circumstances.⁷ The amendment would add specified remote access searches for electronic information to the list of other extraterritorial searches permitted under Rule 41(b). Language in a new subsection 41(b)(6) would authorize a court to issue a warrant to use remote access to search

⁶ Rule 41(b)(1) (“a magistrate judge with authority in the district -- or if none is reasonably available, a judge of a state court of record in the district -- has authority to issue a warrant to search for and seize a person or property located within the district”).

⁷ Currently, Rule 41(b) (2) – (5) authorize out-of-district or extra-territorial warrants for: (1) property in the district when the warrant is issued that might be moved outside the district before the warrant is executed; (2) tracking devices, which may be monitored outside the district if installed within the district; (3) investigations of domestic or international terrorism; and (4) property located in a United States territory or a United States diplomatic or consular mission.

electronic storage media and seize electronically stored information inside *or outside* of the district in two specific circumstances.

The second part of the proposal is a change to Rule 41(f)(1)(C), regulating notice that a search has been conducted. New language would be added at the end of that provision indicating the process for providing notice of a remote access search.

A. Reasons for the proposal

Rule 41's territorial venue provisions—which generally limit searches to locations within a district—create special difficulties for the Government when it is investigating crimes involving electronic information. The proposal speaks to two increasingly common situations affected by the territorial restriction, each involving remote access searches, in which the government seeks to obtain access to electronic information or an electronic storage device by sending surveillance software over the Internet.

In the first situation, the warrant sufficiently describes the computer to be searched, but the district within which the computer is located is unknown. This situation is occurring with increasing frequency because persons who commit crimes using the Internet are using sophisticated anonymizing technologies. For example, persons sending fraudulent communications to victims and child abusers sharing child pornography may use proxy services designed to hide their true IP addresses. Proxy services function as intermediaries for Internet communications: when one communicates through an anonymizing proxy service, the communication passes through the proxy, and the recipient of the communication receives the proxy's IP address, not the originator's true IP address. Accordingly, agents are unable to identify the physical location and judicial district of the originating computer.

A warrant for a remote access search when a computer's location is not known would enable investigators to send an email, remotely install software on the device receiving the email, and determine the true IP address or identifying information for that device. The Department of Justice provided the committee with several examples of affidavits seeking a warrant to conduct such a search. Although some judges have reportedly approved such searches, one judge recently concluded that the territorial requirement in Rule 41(b) precluded a warrant for a remote search when the location of the computer was not known, and he suggested that the Committee should consider updating the territorial limitation to accommodate advancements in technology. *In re Warrant to Search a Target Computer at Premises Unknown*, 958 F. Supp. 2d 753 (S.D. Tex. 2013) (noting that "there may well be a good reason to update the territorial limits of that rule in light of advancing computer search technology").

The second situation involves the use of multiple computers in many districts simultaneously as part of complex criminal schemes. An increasingly common form of online crime involves the surreptitious infection of multiple computers with malicious software that makes them part of a botnet, which is a collection of compromised computers that operate under the remote command and control of an individual or group. Botnets may range in size from hundreds to millions of compromised computers, including computers in homes, businesses, and government systems.

Botnets are used to steal personal and financial data, conduct large-scale denial of service attacks, and distribute malware designed to invade the privacy of users of the host computers.

Effective investigation of these crimes often requires law enforcement to act in many judicial districts simultaneously. Under the current Rule 41, however, except in cases of domestic or international terrorism, investigators may need to coordinate with agents, prosecutors, and magistrate judges in every judicial district in which the computers are known to be located to obtain warrants authorizing the remote access of those computers. Coordinating simultaneous warrant applications in many districts—or perhaps all 94 districts—requires a tremendous commitment of resources by investigators, and it also imposes substantial demands on many magistrate judges. Moreover, because these cases concern a common scheme to infect the victim computers with malware, the warrant applications in each district will be virtually identical.

B. The proposed amendment

The Committee's proposed amendment is narrowly tailored to address these two increasingly common situations in which the territorial or venue requirements now imposed by Rule 41(b) may hamper the investigation of serious federal crimes. The Committee considered, but declined to adopt, broader language relaxing these territorial restrictions. It is important to note that the proposed amendment changes only the territorial limitation that is presently imposed by Rule 41(b). Using language drawn from Rule 41(b)(3) and (5), the proposed amendment states that a magistrate judge "with authority in any district where activities related to a crime may have occurred" (normally the district most concerned with the investigation) may issue a warrant that meets the criteria in new paragraph (b)(6). The proposed amendment does not address constitutional questions that may be raised by warrants for remote electronic searches, such as the specificity of description that the Fourth Amendment may require in a warrant for remotely searching electronic storage media or seizing or copying electronically stored information. The amendment leaves the application of this and other constitutional standards to ongoing case law development.

The Committee agreed that the use of anonymizing software to mask the location of a computer should not prevent the issuance of a warrant if the investigators can satisfy the Fourth Amendment's threshold requirements for obtaining a warrant, describing the computer to be searched with particularity and demonstrating probable cause to believe that evidence to be sought via the remote search will aid in apprehension or conviction of a particular offense. It is appropriate in such cases to make a narrow exception to the general territorial limitations governing the issuance of search warrants. The proposed amendment addresses this problem by relaxing the venue requirements when "the district where the media or information is located has been concealed through technological means." Because the target of the search has deliberately disguised the location of the media or information to be searched, the amendment allows a magistrate judge in a district in which activities related to a crime may have occurred "to issue a warrant to use remote access to search electronic storage media and to seize or copy electronically stored information *located within or outside that district.*" (Emphasis added).

In a very limited class of investigations the Committee's proposed amendment would also eliminate the burden of attempting to secure multiple warrants in numerous districts. The proposed

amendment is limited to investigations of violations of 18 U.S.C. § 1030(a)(5),⁸ where the media to be searched are “protected computers” that have been “damaged without authorization.” The definition of a protected computer includes any computer “which is used in or affecting interstate or foreign commerce or communication.” 18 U.S.C. § 1030(e)(2). The statute defines “damage” as “any impairment to the integrity or availability of data, a program, a system, or information.” 18 U.S.C. § 1030(e)(8). In cases involving an investigation of this nature, the amendment allows a single magistrate judge with authority in any district where activities related to a violation of 18 U.S.C. § 1030(a)(5) may have occurred to oversee the investigation and issue a warrant for a remote electronic search if the media to be searched are protected computers located in five or more districts. The proposed amendment would enable investigators to conduct a search and seize electronically stored information by remotely installing software on a large number of affected victim computers pursuant to one warrant issued by a single judge. The current rule, in contrast, requires obtaining multiple warrants to do so, in each of the many districts in which an affected computer may be located.

Finally, the proposed amendment includes a change to Rule 41(f)(1)(C), which requires notice that a search has been conducted. New language would be added at the end of that provision indicating the process for providing notice of a remote access search. The rule now requires that notice of a physical search be provided “to the person from whom, or from whose premises, the property was taken” or left “at the place where the officer took the property.” The Committee recognized that when a electronic search is conducted remotely, it is not feasible to provide notice in precisely the same manner as when tangible property has been removed from physical premises. The proposal requires that when the search is by remote access, reasonable efforts be made to provide notice to the person whose information was seized or whose property was searched.

Recommendation—The Advisory Committee recommends that the proposed amendment to Rule 41 be published for public comment.

3. ACTION ITEM—Rule 45 (additional time after certain kinds of service)

The proposed amendment (Tab D) is part of the work of the Standing Committee’s CM/ECF Subcommittee, and it parallels amendments to the civil, criminal, bankruptcy and appellate rules. The proposed amendment of Rule 45 would abrogate the rule providing for an additional three days whenever service is made by electronic means. It reflects the CM/ECF Subcommittee’s conclusion that advances in the reliability of technology have undermined the principal justifications for the current rule. Civil Rule 5 was amended in 2001 to allow service by electronic means with the consent of the person served, and a parallel amendment to Rule 45(c) was adopted in 2002. Although electronic transmission seemed virtually instantaneous even then, concerns about the

⁸ 18 U.S.C. § 1030(5) provides that criminal penalties shall be imposed on whoever:

- (A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;
- (B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or
- (C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage and loss.

reliability of electronic service were cited as justifications for allowing three additional days to act after electronic service. At that time, there were concerns that (1) the electronic transmission might be delayed, (2) incompatible systems might make it difficult or impossible to open attachments, or (3) parties might withhold their consent to receiving electronic service unless they had three additional days to act. The CM/ECF Subcommittee concluded that those concerns have been substantially alleviated by advances in technology and in widespread skill in using electronic transmission.

The CM/ECF Subcommittee also noted that elimination of the three day rule for electronic service would also simplify time computation. To ease the task of computing time, many rules were amended in 2009 to adopt 7-, 14-, 21-, and 28-day periods that allow "day-of-the-week" counting. Adding three days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Finally, the proposed amendment (and the parallel amendment to the other rules) includes new parenthetical descriptions of the forms of service for which three days will still be added.

Recommendation—The Advisory Committee recommends that the proposed amendment to Rule 45 be published for public comment.

* * * * *

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF CRIMINAL PROCEDURE***

1 **Rule 4. Arrest Warrant or Summons on a Complaint**

2 **(a) Issuance.** If the complaint or one or more affidavits
3 filed with the complaint establish probable cause to
4 believe that an offense has been committed and that
5 the defendant committed it, the judge must issue an
6 arrest warrant to an officer authorized to execute it.
7 At the request of an attorney for the government, the
8 judge must issue a summons, instead of a warrant, to a
9 person authorized to serve it. A judge may issue more
10 than one warrant or summons on the same complaint.
11 If an individual defendant fails to appear in response
12 to a summons, a judge may, and upon request of an
13 attorney for the government must, issue a warrant. If

* New material is underlined in red; matter to be omitted is lined through.

2 FEDERAL RULES OF CRIMINAL PROCEDURE

14 an organizational defendant fails to appear in response
15 to a summons, a judge may take any action authorized
16 by United States law.

17 * * * * *

18 (c) **Execution or Service, and Return.**

19 (1) **By Whom.** Only a marshal or other authorized
20 officer may execute a warrant. Any person
21 authorized to serve a summons in a federal civil
22 action may serve a summons.

23 (2) **Location.** A warrant may be executed, or a
24 summons served, within the jurisdiction of the
25 United States or anywhere else a federal statute
26 authorizes an arrest. A summons to an
27 organization under Rule 4(c)(3)(D) may also be
28 served at a place not within a judicial district of
29 the United States.

30 **(3) *Manner.***

31 (A) A warrant is executed by arresting the
32 defendant. Upon arrest, an officer
33 possessing the original or a duplicate
34 original warrant must show it to the
35 defendant. If the officer does not possess
36 the warrant, the officer must inform the
37 defendant of the warrant's existence and of
38 the offense charged and, at the defendant's
39 request, must show the original or a
40 duplicate original warrant to the defendant
41 as soon as possible.

42 (B) A summons is served on an individual
43 defendant:

44 (i) by delivering a copy to the defendant
45 personally; or

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46 (ii) by leaving a copy at the defendant's
47 residence or usual place of abode with
48 a person of suitable age and discretion
49 residing at that location and by
50 mailing a copy to the defendant's last
51 known address.

52 (C) A summons is served on an organization in
53 a judicial district of the United States by
54 delivering a copy to an officer, to a
55 managing or general agent, or to another
56 agent appointed or legally authorized to
57 receive service of process. ~~A copy~~If the
58 agent is one authorized by statute and the
59 statute so requires, a copy must also be
60 mailed to the organization~~organization's~~
61 ~~last known address within the district or to~~

62 ~~its principal place of business elsewhere in~~
63 ~~the United States.~~

64 (D) A summons is served on an organization
65 not within a judicial district of the United
66 States:

67 (i) by delivering a copy, in a manner
68 authorized by the foreign
69 jurisdiction's law, to an officer, to a
70 managing or general agent, or to an
71 agent appointed or legally authorized
72 to receive service of process; or

73 (ii) by any other means that gives notice,
74 including one that is:

75 (a) stipulated by the parties;

76 (b) undertaken by a foreign authority
77 in response to a letter rogatory, a
78 letter of request, or a request

79 submitted under an applicable
80 international agreement; or
81 (c) permitted by an applicable
82 international agreement.
83 * * * * *

Committee Note

Subdivision (a). The amendment addresses a gap in the current rule, which makes no provision for organizational defendants who fail to appear in response to a criminal summons. The amendment explicitly limits the issuance of a warrant to individual defendants who fail to appear, and provides that the judge may take whatever action is authorized by law when an organizational defendant fails to appear. The rule does not attempt to specify the remedial actions a court may take when an organizational defendant fails to appear.

Subdivision (c)(2). The amendment authorizes service of a criminal summons on an organization outside a judicial district of the United States.

Subdivision (c)(3)(C). The amendment makes two changes to subdivision (c)(3)(C) governing service of a summons on an organization. First, like Civil Rule 4(h), the amended provision does not require a separate mailing to the organization when delivery has been made in the United States to an officer or to a managing or general agent. Service of process on an officer, managing, or general agent is in effect service on the principal. Mailing is required when delivery has been made on an agent authorized by statute, if the statute itself requires mailing to the entity.

Second, also like Civil Rule 4(h), the amendment recognizes that service outside the United States requires separate consideration, and it restricts Rule 4(c)(3)(C) and its modified mailing requirement to service on organizations within the United States. Service upon organizations outside the United States is governed by new subdivision (c)(3)(D).

These two modifications of the mailing requirement remove an unnecessary impediment to the initiation of criminal proceedings against organizations that commit domestic offenses but have no place of business or mailing address within the United States. Given the realities of today's global economy, electronic communication, and federal criminal practice, the mailing requirement should not shield a defendant organization when the Rule's core objective—notice of pending criminal proceedings—is accomplished.

Subdivision (c)(3)(D). This new subdivision states that a criminal summons may be served on an

organizational defendant outside the United States and enumerates a non-exhaustive list of permissible means of service that provide notice to that defendant.

Although it is presumed that the enumerated means will provide notice, whether actual notice has been provided may be challenged in an individual case.

Subdivision (c)(3)(D)(i). Subdivision (i) notes that a foreign jurisdiction’s law may authorize delivery of a copy of the criminal summons to an officer, to a managing or general agent. This is a permissible means for serving an organization outside of the United States, just as it is for organizations within the United States. The subdivision also recognizes that a foreign jurisdiction’s law may provide for service of a criminal summons by delivery to an appointed or legally authorized agent in a manner that provides notice to the entity, and states that this is an acceptable means of service.

Subdivision (c)(3)(D)(ii). Subdivision (ii) provides a non-exhaustive list illustrating other permissible means of giving service on organizations outside the United States, all of which must be carried out in a manner that “gives notice.”

Paragraph (a) recognizes that service may be made by a means stipulated by the parties.

Paragraph (b) recognizes that service may be made by the diplomatic methods of letters rogatory and letters of request, and the last clause of the paragraph provides for service under international agreements that obligate the

parties to provide broad measures of assistance, including the service of judicial documents. These include crime-specific multilateral agreements (e.g., the United Nations Convention Against Corruption (UNCAC), S. Treaty Doc. No. 109-6 (2003)), regional agreements (e.g., the Inter-American Convention on Mutual Assistance in Criminal Matters (OAS MLAT), S. Treaty Doc. No. 105-25 (1995)), and bilateral agreements.

Paragraph (c) recognizes that other means of service that provide notice and are permitted by an applicable international agreement are also acceptable when serving organizations outside the United States.

As used in this rule, the phrase “applicable international agreement” refers to an agreement that has been ratified by the United States and the foreign jurisdiction and is in force.

1 **Rule 41. Search and Seizure**

2 * * * * *

3 **(b) Authority to Issue a Warrant.** At the request of a
4 federal law enforcement officer or an attorney for the
5 government:

6 * * * * *

7 (6) a magistrate judge with authority in any district
8 where activities related to a crime may have
9 occurred has authority to issue a warrant to use
10 remote access to search electronic storage media
11 and to seize or copy electronically stored
12 information located within or outside that district
13 if:

14 (A) the district where the media or information
15 is located has been concealed through
16 technological means; or

17 (B) in an investigation of a violation of
18 18 U.S.C. § 1030(a)(5), the media are
19 protected computers that have been
20 damaged without authorization and are
21 located in five or more districts.

22 * * * * *

23 **(f) Executing and Returning the Warrant.**

24 **(1) *Warrant to Search for and Seize a Person or***
25 ***Property.***

26 * * * * *

27 (C) *Receipt.* The officer executing the warrant
28 must give a copy of the warrant and a
29 receipt for the property taken to the person
30 from whom, or from whose premises, the
31 property was taken or leave a copy of the
32 warrant and receipt at the place where the
33 officer took the property. For a warrant to

34 use remote access to search electronic
35 storage media and seize or copy
36 electronically stored information, the
37 officer must make reasonable efforts to
38 serve a copy of the warrant on the person
39 whose property was searched or whose
40 information was seized or copied. Service
41 may be accomplished by any means,
42 including electronic means, reasonably
43 calculated to reach that person.

44 * * * * *

Committee Note

Subdivision (b)(6). The amendment provides that in two specific circumstances a magistrate judge in a district where activities related to a crime may have occurred has authority to issue a warrant to use remote access to search electronic storage media and seize or copy electronically stored information even when that media or information is or may be located outside of the district.

First, subparagraph (b)(6)(A) provides authority to issue a warrant to use remote access within or outside that district when the district in which the media or information is located is not known because of the use of technology such as anonymizing software.

Second, (b)(6)(B) allows a warrant to use remote access within or outside the district in an investigation of a violation of 18 U.S.C. § 1030(a)(5) if the media to be searched are protected computers that have been damaged without authorization, and they are located in many districts. Criminal activity under 18 U.S.C. § 1030(a)(5) (such as the creation and control of “botnets”) may target multiple computers in several districts. In investigations of this nature, the amendment would eliminate the burden of attempting to secure multiple warrants in numerous districts, and allow a single judge to oversee the investigation.

As used in this rule, the terms “protected computer” and “damage” have the meaning provided in 18 U.S.C. §1030(e)(2) & (8).

The amendment does not address constitutional questions, such as the specificity of description that the Fourth Amendment may require in a warrant for remotely searching electronic storage media or seizing or copying electronically stored information, leaving the application of this and other constitutional standards to ongoing case law development.

Subdivision (f)(1)(C). The amendment is intended to ensure that reasonable efforts are made to provide notice

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of the search, seizure, or copying to the person whose information was seized or copied or whose property was searched.

1 **Rule 45. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 (c) **Additional Time After Certain Kinds of Service.**

5 Whenever a party must or may act within a specified
6 time after service and service is made under Federal
7 Rule of Civil Procedure 5(b)(2)(C) (mailing), (D)
8 (leaving with the clerk), ~~(E)~~,—or (F) (other means
9 consented to), 3 days are added after the period would
10 otherwise expire under subdivision (a).

Committee Note

Subdivision (c). Rule 45(c) and Rule 6(d) of the Federal Rules of Civil Procedure contain parallel provisions providing additional time for actions after certain modes of service, identifying those modes by reference to Civil Rule 5(b)(2). Rule 45(c)—like Civil Rule 6(d)—is amended to remove service by electronic means under Rule 5(b)(2)(E) from the forms of service that allow 3 added days to act after being served. The amendment also adds clarifying parentheticals identifying the forms of service for which 3 days will still be added.

Civil Rule 5 was amended in 2001 to allow service by electronic means with the consent of the person served, and a parallel amendment to Rule 45(c) was adopted in 2002. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow 3 added days means that the 3

added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means of delivery” under subparagraph (F).

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“3 DAYS ARE ADDED” RULES*

*Appellate Rule 26*¹

1 **Rule 26. Computing and Extending Time**

2 * * * * *

3 (c) **Additional Time after Certain Kinds of Service.**

4 When a party may or must act within a specified time
5 after ~~service~~being served, 3 days are added after the
6 period would otherwise expire under Rule 26(a),
7 unless the paper is delivered on the date of service
8 stated in the proof of service. For purposes of this
9 Rule 26(c), a paper that is served electronically is ~~not~~
10 treated as delivered on the date of service stated in the
11 proof of service.

* New material is underlined in red; matter to be omitted is lined through.

¹ This proposal also appears *supra* pp. 70.

Committee Note

Rule 26(c) is amended to remove service by electronic means under Rule 25(c)(1)(D) from the modes of service that allow 3 added days to act after being served.

Rule 25(c) was amended in 2002 to provide for service by electronic means. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28- day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for

further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Rule 26(c) has also been amended to refer to instances when a party “may or must act . . . after being served” rather than to instances when a party “may or must act. . . after service.” If, in future, an Appellate Rule sets a deadline for a party to act after *that party itself effects service* on another person, this change in language will clarify that Rule 26(c)’s three added days are not accorded to the party who effected service.

*Bankruptcy Rule 9006*²

1 **Rule 9006. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 (f) ADDITIONAL TIME AFTER SERVICE BY
5 MAIL OR UNDER RULE 5(b)(2)(D), ~~(E)~~, OR (F) F.R.
6 CIV. P. When there is a right or requirement to act or
7 undertake some proceedings within a prescribed period
8 after being served³ and that service is by mail or under
9 Rule 5(b)(2)(D) (leaving with the clerk), ~~(E)~~, or (F) (other
10 means consented to) F.R. Civ. P., three days are added after
11 the prescribed period would otherwise expire under
12 Rule 9006(a).

13 * * * * *

² This proposal also appears *supra* pp. 154.

³ This wording reflects the proposed amendment published in August 2013.

Committee Note

Subdivision (f) is amended to remove service by electronic means under Civil Rule 5(b)(2)(E) from the modes of service that allow three added days to act after being served.

Rule 9006(f) and Civil Rule 6(d) contain similar provisions providing additional time for actions after being served by mail or by certain modes of service that are identified by reference to Civil Rule 5(b)(2). Rule 9006(f)—like Civil Rule 6(d)—is amended to remove the reference to service by electronic means under Rule 5(b)(2)(E). The amendment also adds clarifying parentheticals identifying the forms of service under Rule 5(b)(2) for which three days will still be added.

Civil Rule 5(b)—made applicable in bankruptcy proceedings by Rules 7005 and 9014(b)—was amended in 2001 to allow service by electronic means with the consent of the person served. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow three added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the three added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the three added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the three added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding three days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow three added days means that the three added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means” of delivery under subparagraph (F).

*Civil Rule 6*⁴

1 **Rule 6. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 **(d) Additional Time After Certain Kinds of Service.**

5 When a party may or must act within a specified time
6 after being served⁵ and service is made under
7 Rule 5(b)(2)(C) (mail), (D) (leaving with the
8 clerk), ~~(E)~~, or (F) (other means consented to), 3 days
9 are added after the period would otherwise expire
10 under Rule 6(a).

Committee Note

Rule 6(d) is amended to remove service by electronic means under Rule 5(b)(2)(E) from the modes of service that allow 3 added days to act after being served.

⁴ This proposal also appears *supra* pp. 316.

⁵ This wording reflects the proposed amendment published in August 2013.

Rule 5(b)(2) was amended in 2001 to provide for service by electronic means. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow 3 added days means that the 3

added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means” of delivery under subparagraph (F).

*Criminal Rule 45*⁶

1 **Rule 45. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 (c) **Additional Time After Certain Kinds of Service.**

5 Whenever a party must or may act within a specified
6 time after service and service is made under Federal
7 Rule of Civil Procedure 5(b)(2)(C) (mailing), (D)
8 (leaving with the clerk), ~~(E)~~,—or (F) (other means
9 consented to), 3 days are added after the period would
10 otherwise expire under subdivision (a).

Committee Note

Subdivision (c). Rule 45(c) and Rule 6(d) of the Federal Rules of Civil Procedure contain parallel provisions providing additional time for actions after certain modes of service, identifying those modes by reference to Civil Rule 5(b)(2). Rule 45(c)—like Civil Rule 6(d)—is amended to remove service by electronic means under Rule 5(b)(2)(E) from the forms of service that

⁶ This proposal also appears *supra* pp. 343.

allow 3 added days to act after being served. The amendment also adds clarifying parentheticals identifying the forms of service for which 3 days will still be added.

Civil Rule 5 was amended in 2001 to allow service by electronic means with the consent of the person served, and a parallel amendment to Rule 45(c) was adopted in 2002. Although electronic transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow 3 added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the 3 added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the 3 added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the 3 added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow “day-of-the-week” counting. Adding 3 days at the end complicated the counting, and increased the occasions for further complication by invoking the

provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow 3 added days means that the 3 added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service “by any other means of delivery” under subparagraph (F).

Procedures for the Judicial Conference’s Committee on Rules of Practice and Procedure and Its Advisory Rules Committees

(as codified in *Guide to Judiciary Policy*, Vol. 1, § 440)

§ 440 Procedures for Committees on Rules of Practice and Procedure

This section contains the “Procedures for the Judicial Conference’s Committee on Rules of Practice and Procedure and Its Advisory Rules Committees,” last amended in September 2011. [JCUS-SEP 2011](#), p. __.

§ 440.10 Overview

The Rules Enabling Act, [28 U.S.C. §§ 2071–2077](#), authorizes the Supreme Court to prescribe general rules of practice and procedure and rules of evidence for the federal courts. Under the Act, the Judicial Conference must appoint a standing committee, and may appoint advisory committees to recommend new and amended rules. Section 2073 requires the Judicial Conference to publish the procedures that govern the work of the Committee on Rules of Practice and Procedure (the “Standing Committee”) and its advisory committees on the Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure and on the Evidence Rules. See [28 U.S.C. § 2073\(a\)\(1\)](#). These procedures do not limit the rules committees’ authority. Failure to comply with them does not invalidate any rules committee action. Cf. [28 U.S.C. § 2073\(e\)](#).

§ 440.20 Advisory Committees

§ 440.20.10 Functions

Each advisory committee must engage in “a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use” in its field, taking into consideration suggestions and recommendations received from any source, new statutes and court decisions affecting the rules, and legal commentary. See [28 U.S.C. § 331](#).

§ 440.20.20 Suggestions and Recommendations

Suggestions and recommendations on the rules are submitted to the Secretary of the Standing Committee at the Administrative Office of the United States Courts, Washington, D.C. The Secretary will acknowledge the suggestions or recommendations and refer them to the appropriate advisory committee. If the Standing Committee takes formal action on them, that action will be reflected in the Standing Committee’s minutes, which are posted on the [judiciary’s rulemaking website](#).

§ 440.20.30 Drafting Rule Changes

(a) Meetings

Each advisory committee meets at the times and places that the chair designates. Advisory committee meetings must be open to the public, except when the committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the [judiciary's rulemaking website](#), sufficiently in advance to permit interested persons to attend.

(b) Preparing Draft Changes

The reporter assigned to each advisory committee should prepare for the committee, under the direction of the committee or its chair, draft rule changes, committee notes explaining their purpose, and copies or summaries of written recommendations and suggestions received by the committee.

(c) Considering Draft Changes

The advisory committee studies the rules' operation and effect. It meets to consider proposed new and amended rules (together with committee notes), whether changes should be made, and whether they should be submitted to the Standing Committee with a recommendation to approve for publication. The submission must be accompanied by a written report explaining the advisory committee's action and its evaluation of competing considerations.

§ 440.20.40 Publication and Public Hearings

(a) Publication

Before any proposed rule change is published, the Standing Committee must approve publication. The Secretary then arranges for printing and circulating the proposed change to the bench, bar, and public. Publication should be as wide as possible. The proposed change must be published in the *Federal Register* and on the [judiciary's rulemaking website](#). The Secretary must:

- (1) notify members of Congress, federal judges, and the chief justice of each state's highest court of the proposed change, with a link to the [judiciary's rulemaking website](#); and
- (2) provide copies of the proposed change to legal-publishing firms with a request to timely include it in publications.

(b) Public Comment Period

A public comment period on the proposed change must extend for at least six months after notice is published in the *Federal Register*, unless a shorter period is approved under paragraph (d) of this section.

(c) Hearings

The advisory committee must conduct public hearings on the proposed change unless eliminating them is approved under paragraph (d) of this section or not enough witnesses ask to testify at a particular hearing. The hearings are held at the times and places that the advisory committee's chair determines. Notice of the times and places must be published in the *Federal Register* and on the [judiciary's rulemaking website](#). The hearings must be recorded. Whenever possible, a transcript should be produced by a qualified court reporter.

(d) Expedited Procedures

The Standing Committee may shorten the public comment period or eliminate public hearings if it determines that the administration of justice requires a proposed rule change to be expedited and that appropriate notice to the public can still be provided and public comment obtained. The Standing Committee may also eliminate public notice and comment for a technical or conforming amendment if the Committee determines that they are unnecessary. When an exception is made, the chair must advise the Judicial Conference and provide the reasons.

§ 440.20.50 Procedures After the Comment Period

(a) Summary of Comments

When the public comment period ends, the reporter must prepare a summary of the written comments received and of the testimony presented at public hearings. If the number of comments is very large, the reporter may summarize and aggregate similar individual comments, identifying the source of each one.

(b) Advisory Committee Review; Republication

The advisory committee reviews the proposed change in light of any comments and testimony. If the advisory committee makes substantial changes, the proposed rule should be republished for an additional period of public comment unless the advisory committee determines that republication would not be necessary to achieve adequate public comment and would not assist the work of the rules committees.

(c) Submission to the Standing Committee

The advisory committee submits to the Standing Committee the proposed change and committee note that it recommends for approval. Each submission must:

- (1) be accompanied by a separate report of the comments received;
- (2) explain the changes made after the original publication; and
- (3) include an explanation of competing considerations examined by the advisory committee.

§ 440.20.60 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The advisory committee's chair arranges for preparing the minutes of the committee meetings.

(b) Records

The advisory committee's records consist of:

- written suggestions received from the public;
- written comments received from the public on drafts of proposed rules;
- the committee's responses to public suggestions and comments;
- other correspondence with the public about proposed rule changes;
- electronic recordings and transcripts of public hearings (when prepared);
- the reporter's summaries of public comments and of testimony from public hearings;
- agenda books and materials prepared for committee meetings;
- minutes of committee meetings;

- approved drafts of rule changes; and
 - reports to the Standing Committee.
- (c) Public Access to Records

The records must be posted on the [judiciary's rulemaking website](#), except for general public correspondence about proposed rule changes and electronic recordings of hearings when transcripts are prepared. This correspondence and archived records are maintained by the Administrative Office of the United States Courts and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under § 440.20.30(a).

§ 440.30 Standing Committee

§ 440.30.10 Functions

The Standing Committee's functions include:

- (a) coordinating the work of the advisory committees;
- (b) suggesting proposals for them to study;
- (c) considering proposals they recommend for publication for public comment; and
- (d) for proposed rule changes that have completed that process, deciding whether to accept or modify the proposals and transmit them with its own recommendation to the Judicial Conference, recommit them to the advisory committee for further study and consideration, or reject them.

§ 440.30.20 Procedures

- (a) Meetings

The Standing Committee meets at the times and places that the chair designates. Committee meetings must be open to the public, except when the Committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the [judiciary's rulemaking website](#), sufficiently in advance to permit interested persons to attend.

(b) Attendance by the Advisory Committee Chairs and Reporters

The advisory committees' chairs and reporters should attend the Standing Committee meetings to present their committees' proposed rule changes and committee notes, to inform the Standing Committee about ongoing work, and to participate in the discussions.

(c) Action on Proposed Rule Changes or Committee Notes

The Standing Committee may accept, reject, or modify a proposed change or committee note, or may return the proposal to the advisory committee with instructions or recommendations.

(d) Transmission to the Judicial Conference

The Standing Committee must transmit to the Judicial Conference the proposed rule changes and committee notes that it approves, together with the advisory committee report. The Standing Committee's report includes its own recommendations and explains any changes that it made.

§ 440.30.30 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The Secretary prepares minutes of Standing Committee meetings.

(b) Records

The Standing Committee's records consist of:

- the minutes of Standing Committee and advisory committee meetings;
- agenda books and materials prepared for Standing Committee meetings;
- reports to the Judicial Conference; and
- official correspondence about rule changes, including correspondence with advisory committee chairs.

(c) Public Access to Records

The records must be posted on the judiciary's rulemaking website, except for official correspondence about rule changes. This correspondence and archived records are maintained by the Administrative Office of the United

States Courts and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under § 440.30.20(a).

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