

**ADVISORY COMMITTEE  
ON  
BANKRUPTCY RULES**

**Minneapolis, MN  
September 24-25, 2013**

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ADVISORY COMMITTEE ON BANKRUPTCY RULES  
Meeting of September 24 - 25, 2013  
Minneapolis, Minnesota

Introductory Items

1. Greetings and welcome to new member Judge Amul R. Thapar. (Judge Wedoff)
2. Approval of minutes of New York meeting of April 2 - 3, 2013. (Judge Wedoff)
  - Draft minutes.
3. Oral reports on meetings of other committees:
  - (A) June 2013 meeting of the Committee on Rules of Practice and Procedure, including the request for comments on the alternatives included in the proposed amendment of Rule 5005(a). (Judge Wedoff and Professor Gibson)
    - Draft minutes of the June 3 - 4, 2013, Standing Committee meeting will be distributed separately.
  - (B) Intercommittee - CM/ECF Subcommittee, including a proposal for the elimination of the 3-day extension in Rule 9006(f) in the case of electronic service. (Judge Wedoff and Professor Gibson)
    - Draft Amendment to Rule 9006(f).
    - Draft Amendment to Civil Rule 6(d).
  - (C) June 2013 meeting of the Committee on the Administration of the Bankruptcy System. (Judge Smith and Judge Wedoff)
  - (D) April 2013 meeting of the Advisory Committee on Civil Rules. (Judge Harris)
  - (E) May 2013 meeting of the Advisory Committee on Evidence. (Judge Wizmur)
  - (F) April 2013 meeting of the Advisory Committee on Appellate Rules. (Judge Jordan)
  - (G) Bankruptcy Next Generation of CM/ECF Working Group. (Judge Perris)

## Subcommittee Reports and Other Action Items

4. Report by the Subcommittee on Consumer Issues. (Judge Harris, Professor Gibson, and Professor McKenzie)
  - (A) Recommendation concerning Suggestion 12-BK-B by Matthew T. Loughney (on behalf of the Bankruptcy Noticing Working Group) to amend Rule 2002(f)(7) to require notice of the confirmation of the debtor's chapter 13 plan. (Judge Harris and Professor McKenzie)
    - Memo of August 19, 2013, by Professor McKenzie.
  - (B) Recommendation concerning Comment 11-BK-12 by Judge Eric L. Frank regarding the negative notice procedure for objections to claims in the proposed amendment to Rule 3007 that was published in 2011. (Judge Harris and Professor Gibson)
    - Memo of August 28, 2013, by Professor Gibson.
  - (C) Recommendation concerning conforming amendments of Rule 1007(a)(1) and (a)(2) to reflect the changed designations of the schedules proposed by the Forms Modernization Project. (Judge Harris and Professor Gibson)
    - Memo of August 23, 2013, by Professor Gibson.
  - (D) Oral report concerning Suggestion 12-BK-I by Judge John E. Waites (on behalf of the Bankruptcy Judges Advisory Group) to amend Rule 1006(b) to provide that courts may require a minimum initial payment with requests to pay filing fees in installments. (Judge Harris and Professor Gibson)
  - (E) Oral report concerning Suggestion 12-BK-M by Judge Scott W. Dales to amend Rule 2002(h) to mitigate the cost of giving notice to creditors who have not filed proofs of claim. (Judge Harris and Professor McKenzie)
5. Report by the Chapter 13 Plan Form Working Group. (Judge Wedoff and Mr. Kilpatrick)

Oral report concerning (1) responses to the publication of the chapter 13 plan form and the implementing rules amendments and (2) outreach to the chapter 13 community concerning the plan form and rules. (Judge Wedoff and Mr. Kilpatrick)



6. Report by the Mortgage Claim Form Working Group. (Ms. Michaux and Professor Gibson)

Oral report concerning amending Official Form 10A (Mortgage Proof of Claim Attachment) to require inclusion of a loan history. (Ms. Michaux, Professor Gibson)
7. Joint Report by the Subcommittees on Consumer Issues and Forms. (Judge Harris, Judge Perris, and Professor Gibson)
  - (A) Recommendations concerning (1) Suggestion 13-BK-E by Judge Carol Doyle to amend Rule 3002.1 to clarify that the rule applies to all claims secured by a chapter 13 debtor's principal residence when the plan proposes to maintain mortgage payments postpetition and (2) providing guidance on whether the creditor's obligations under Rule 3002.1 cease to apply if the automatic stay is lifted with respect to the residence. (Judge Harris and Professor Gibson)
    - Memo of August 23, 2013, by Professor Gibson.
  - (B) Oral report concerning Suggestion 11-BK-N by David S. Yen for a rule and form for applications to waive fees other than filing fees under 28 U.S.C. § 1930(f)(2) and (f)(3). (Judge Harris and Professor Gibson)
8. Report by the Subcommittee on Forms and the Forms Modernization Project. (Judge Perris, Judge Harris, Professor Gibson, and Mr. Myers)
  - (A) Report on the status of the Forms Modernization Project and preliminary review of filing forms for non-individual debtors, including a chapter 15 petition.
    - Memo by of August 27, 2013, by Judge Perris.
    - Proposed new Official Forms B201, B202, B204, B205, B206A/B, B206D, B206E/F, B206G, B206H, B206 – Summary, B207, B401, and 410; Committee Notes; and Instructions.
    - Modernized Bankruptcy Forms Numbering Conversion Chart.
  - (B) Recommendation concerning Suggestion 13-BK-B by Judges Eric L. Frank and Bruce I. Fox to amend the Voluntary Petition to include checkboxes for the documents small business debtors are required to file under § 1116(1) of the Bankruptcy Code. (Judge Perris and Professor Gibson)
    - Memo of August 19, 2013, by Professor Gibson.

- (C) Oral report on the revision of the bankruptcy subpoena forms as a consequence of the amendment of Civil Rule 45 effective December 1, 2013. (Judge Harris)
- Revised Director's Procedural Forms B254, B255, and B256 and new Form B257 are posted on the pending forms changes page on the Judiciary website at <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>.
9. Report by the Subcommittee on Business Issues. (Judge Wizmur and Professor McKenzie)
- (A) Oral report on the status of the proposed amendments to Rules 7008, 7012, 7016, 9027, and 9033 scheduled to take effect on December 1, 2013, and other amendments proposed in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). (Judge Wizmur and Professor McKenzie)
- (B) Recommendation concerning Suggestion 13-BK-D by David Tilem to add a checkbox for other voting parties to Official Form 14, the ballot for confirmation of a Chapter 11 plan. (Judge Wizmur and Professor McKenzie)
- Memo of August 16, 2013, by Professor McKenzie.
10. Report by the Subcommittee on Privacy, Public Access, and Appeals. (Judge Jordan, Professor Gibson, and Professor McKenzie)
- (A) Recommendation concerning Suggestion 13-BK-A by David W. Ostrander to include the debtor's age on the Statement of Financial Affairs or the Schedules of Assets and Liabilities. (Judge Jordan and Professor McKenzie)
- Memo of August 16, 2013, by Professor McKenzie.
- (B) Recommendation concerning amendments to the bankruptcy appellate rules which were prompted by comments on the pending amendments to those rules. (Judge Jordan and Professor Gibson)
- Memo of August 26, 2013, by Professor Gibson.
  - The proposed amendments to the bankruptcy appellate rules scheduled to take effect on December 1, 2014, are posted on the federal rules page of the Judiciary website at <http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/Agenda%20Books/Stan ding/ST2013-06.pdf#pagemode=bookmarks>. The proposed rules start at page 375.

11. Report by the Subcommittee on Technology and Cross Border Insolvency. (Mr. Baxter and Professor McKenzie)

Oral report concerning Suggestion 13-BK-F, by Judge Barry Schermer to amend portions of the Bankruptcy Rules that apply to chapter 15 proceedings. (Mr. Baxter and Professor McKenzie)

12. Report by the Subcommittee on Attorney Conduct and Health Care. (Judge Jonker and Professor McKenzie)

Oral report concerning Suggestion 13-BK-C by the American Bankruptcy Institute's Task Force on National Ethics Standards to amend Rule 2014 to specify the relevant connections that must be described in the verified statement accompanying an application to employ professionals. (Judge Jonker and Professor McKenzie)

#### Discussion Items

13. Oral report concerning Suggestion 13-BK-G by Gary Streeting to amend Rule 1015(b). (Judge Wedoff)
14. Oral report concerning Suggestion 13-BK-H by Dan Dooley to amend Rule 2016 to require that attorneys and other professionals employed by the estate submit weekly reports and fee applications. (Judge Wedoff)
15. Oral report concerning Suggestion 13-BK-I by Judge Stuart Bernstein to amend Official Forms 9F and 9F(Alt.). (Judge Wedoff)

#### Information Items

16. Oral report on the status of bankruptcy-related legislation. (Judge Wedoff, Professor Gibson, and Mr. Wannamaker)
17. *Bull Pen*. (Mr. Wannamaker):

Currently, there are no amendments that have been approved and held in the “bull pen” for submission to the Committee on Practice and Procedure in the future.
18. *Dugout*. Suggestions and issues deferred for future consideration. (Mr. Wannamaker):
19. Rules Docket. (Mr. Wannamaker)

20. Future meetings: Spring 2014 meeting, April 22 – 23, in Austin. Possible locations for the fall 2014 meeting.
21. New business.
22. Adjourn.

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Advisory Committee on Bankruptcy Rules  
Subcommittee/Liaison Assignments, Effective July 25, 2013

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<p><b>Subcommittee on Forms</b>          Judge Elizabeth L. Perris, Chair          Judge Judith H. Wizmur          Judge Arthur I. Harris          J. Christopher Kohn, Esq.          Jill Michaux, Esq.          Richardo I. Kilpatrick, Esq.          James J. Waldron, <i>ex officio</i>          Ramona D. Elliott, Esq., <i>EOUST liaison</i>          Patricia S. Ketchum, Esq., <i>Consultant</i></p>	<p><b>Forms Modernization Project</b>          Judge Elizabeth L. Perris, Chair          Judge Judith H. Wizmur          Judge Arthur I. Harris          J. Christopher Kohn, Esq.          Richardo I. Kilpatrick, Esq.          James J. Waldron, <i>ex officio</i>          Ramona D. Elliott, Esq., <i>EOUST liaison</i>          Patricia S. Ketchum, Esq., <i>Consultant</i></p>
<p><b>Subcommittee on Privacy, Public Access and Appeals</b>          Judge Adalberto Jordan, Chair          Judge Sandra Segal Ikuta          Judge Amul R. Thapar          Judge Elizabeth L. Perris          J. Christopher Kohn, Esq.          Michael St. Patrick Baxter, Esq.          David A. Lander, Esq.          Ramona D. Elliott, Esq., <i>EOUST liaison</i></p>	<p><b>Subcommittee on Style</b>          Judge Sandra Segal Ikuta, Chair          Judge Amul R. Thapar          Judge Judith H. Wizmur          Judge Arthur I. Harris          J. Christopher Kohn, Esq.          David A. Lander, Esq.          Michael St. Patrick Baxter, Esq.</p>

July 25, 2013

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July 25, 2013

### Advisory Committee on Bankruptcy Rules

Members	Position	District/Circuit	Start Date	End Date
Eugene R. Wedoff Chair	B	Illinois (Northern)	Member: Chair: 2004 2010	---- 2014
Michael St. Patrick Baxter	ESQ	Washington, DC		2008 2014
Jean C. Hamilton	D	Missouri (Eastern)		2011 2014
Arthur I. Harris	B	Ohio (Northern)		2010 2015
Sandra Segal Ikuta	C	Ninth Circuit		2010 2015
Robert James Jonker	D	Michigan (Western)		2010 2016
Adalberto Jose Jordan	C	Eleventh Circuit		2010 2016
Richardo I. Kilpatrick	ESQ	Michigan		2011 2014
J. Christopher Kohn*	DOJ	Washington, DC		---- Open
David A. Lander	ESQ	Missouri		2008 2014
Jill A. Michaux	ESQ	Kansas		2012 2015
Edward R. Morrison	ACAD	New York		2010 2016
Elizabeth L. Perris	B	Oregon		2007 2014
Amul R. Thapar	D	Kentucky (Eastern)		2013 2016
Judith H. Wizmur	B	New Jersey		2008 2014
S. Elizabeth Gibson Reporter	ACAD	North Carolina		2008 Open
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<b>Liaison for the Advisory Committee on Criminal Rules</b>	<b>Judge Marilyn L. Huff</b> <i>(Standing)</i>
<b>Liaison for the Advisory Committee on Evidence Rules</b>	<b>Judge Judith H. Wizmur</b> <i>(Bankruptcy)</i>
<b>Liaison for the Advisory Committee on Evidence Rules</b>	<b>Judge Paul S. Diamond</b> <i>(Civil)</i>
<b>Liaison for the Advisory Committee on Evidence Rules</b>	<b>Judge John F. Keenan</b> <i>(Criminal)</i>
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# TAB 1

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Greetings; Welcome

Item 1 will be an oral report.

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ADVISORY COMMITTEE ON BANKRUPTCY RULES

Meeting of April 2–3, 2013

New York, New York

Draft Minutes

The following members attended the meeting:

Bankruptcy Judge Eugene R. Wedoff, Chair  
Circuit Judge Sandra Segal Ikuta  
Circuit Judge Adalberto Jordan (by telephone)  
District Judge Karen Caldwell  
District Judge Jean Hamilton  
District Judge Robert James Jonker  
Bankruptcy Judge Arthur I. Harris  
Bankruptcy Judge Elizabeth L. Perris  
Bankruptcy Judge Judith H. Wizmur  
Professor Edward R. Morrison  
Michael St. Patrick Baxter, Esquire  
Richardo I. Kilpatrick, Esquire  
J. Christopher Kohn, Esquire  
David A. Lander, Esquire  
Jill Michaux, Esquire

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter  
Professor Troy A. McKenzie, assistant reporter  
Roy T. Englert, Jr., Esq., liaison from the Committee on Rules of Practice and  
Procedure (Standing Committee)  
Bankruptcy Judge Erithe A. Smith, liaison from the Committee on Bankruptcy  
Administration  
Jonathan Rose, secretary of the Standing Committee and Chief, Rules Committee  
Support Office  
Patricia S. Ketchum, advisor to the Advisory Committee  
Ramona D. Elliott, Deputy Director /General Counsel, Executive Office for U.S.  
Trustees (EOUST) (by telephone)  
Lisa Tracy, Associate General Counsel, EOUST (by telephone)  
James J. Waldron, Clerk, U.S. Bankruptcy Court for the District of New Jersey  
Peter G. McCabe, Assistant Director, Office of Judges Programs, Administrative  
Office of the U.S. Courts (Administrative Office)  
Benjamin Robinson, Deputy Rules Officer  
James H. Wannamaker, Administrative Office  
Scott Myers, Administrative Office  
Bridget Healy, Administrative Office  
Molly Johnson, Federal Judicial Center  
Michael T. Bates, Senior Company Counsel, Wells Fargo  
Eric Donowho, Chief Administrative Officer, Barrett, Daffin, Frappier, Turner &  
Engel, LLP

Marcy J. Ford, Executive Vice President and Managing Partner Bankruptcy  
Department, Trott & Trott, PC  
Craig Goldblatt, WilmerHale LLP  
Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy  
Trustees  
Anita M. Warner, Vice President, Assistant General Counsel, Chase  
Daniel A. West, Shareholder/Managing Attorney, South & Associates

The following summary of matters discussed at the meeting is written in the order of the meeting agenda unless otherwise specified, not necessarily in the order actually discussed. It should be read in conjunction with the agenda materials and other written materials referred to, all of which are on file in the office of the Secretary of the Standing Committee.

An electronic copy of the agenda materials, other than materials distributed at the meeting after the agenda materials were published, is available at <http://www.uscourts.gov/RulesAndPolicies/rules/archives/agenda-books/committee-rules-bankruptcy-procedure.aspx>. Votes and other action taken by the Advisory Committee and assignments by the Chair appear in **bold**.

#### Introductory Items

1. Greetings; welcome to new member Jill Michaux, Esq., and new liaison representatives Roy T. Englert, Jr., Esq., and Judge Erithe A. Smith; and recognition of the service of former committee member Jerry Patchan.

The Chair welcomed the Advisory Committee's newest member, Jill Michaux, Esq., and its new liaisons from the Standing Rules Committee, Roy Englert, and from the Committee on Bankruptcy Administration, Judge Erithe Smith.

At the Chair's request, Ms. Ketchum and Mr. McCabe recognized the service of former member Jerry Patchan, who recently passed away. Ms. Ketchum noted that it was ironic to honor Mr. Patchan at this time in light of the many comments the Advisory Committee received in response to publication of the first set forms produced as part of the Forms Modernization Project. Mr. Patchan, she said, was the first chair of the Advisory Committee's Forms Subcommittee and he presided over the last major overhaul of bankruptcy forms in the late 1980s. Mr. Patchan was a former bankruptcy judge, became a private attorney and joined the Advisory Committee, and later was director of the Executive Office for United States trustees.

2. Approval of minutes of Portland meeting of September 20–21, 2012.

**The draft minutes were approved with minor edits.**

3. Oral reports on meetings of other committees:
  - (A) January 2013 meeting of the Advisory Committee on Rules of Practice and Procedure.

The Chair said that the Standing Committee was asked to comment on the modernized bankruptcy forms for individuals at its January meeting, and that there was general approval of the new forms. There were some concerns, however, about the Advisory Committee's attempt to



incorporate the Supreme Court's holding in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010) into the exemption schedule. The Chair said that the Joint Consumer Forms Subcommittee has amended the exemption schedule to address the Standing Committee's concerns, and that the revised form would be considered at Agenda Item 7(A).

The Chair said the Standing Committee asked the Advisory Committee to move forward in its consideration of a rule for electronic signatures and that the proposal of the Subcommittee on Technology and Cross Border Insolvency on that issue would be considered at Agenda Item 10.

- (B) January 2013 meeting of the Advisory Committee on the Administration of the Bankruptcy System.

Judge Smith reported on the most recent meeting of the Advisory Committee on the Administration of the Bankruptcy System, which she said focused largely on budget matters.

- (C) November 2012 meeting of the Advisory Committee on Civil Rules, including the Civil Rules Committee's approval of an amendment of Civil Rule 6(d) for future publication.

Judge Harris said there was one matter before the Committee on Civil Rules that has near term bankruptcy rules implications. The Civil Rules Committee voted to approve a proposed amendment to Rule 6(d), he said, that would clarify that only the party being served (not the party serving) by certain means described in the rule could add 3 days to a time period. Judge Harris moved for the Advisory Committee to recommend publication of the same change to Bankruptcy Rule 9006(f), which incorporates the language from Rule 6(d), so that counting under the two rules remains the same. **The Advisory Committee recommended the following amendment Rule 9006(f) for publication:** Replace the word "service" with "being served."

Mr. McCabe added that a pending change to the Rule 45 on track to take effect December 1, 2013, which is incorporated into Bankruptcy Rule 9016, would require changes to the bankruptcy subpoena forms. **The Chair asked the Forms Subcommittee to consider needed changes this summer, and to report back at the fall meeting.**

- (D) October 2012 meeting of the Advisory Committee on Evidence.

Judge Wizmur reported on the work of the Advisory Committee on Evidence.

- (E) September 2012 meeting of the Advisory Committee on Appellate Rules.

Judge Jordon reported on the work of the Advisory Committee on Appellate Rules.

- (F) Bankruptcy Next Generation of CM/ECF Working Group.

Judge Perris reported on the progress of Next Generation of CM/ECF at Agenda item 7.

Subcommittee Reports and Other Action Items

4. Report by the Subcommittee on Consumer Issues.

- (A) Oral report concerning Suggestion 12-BK-I by Judge John E. Waites (on behalf of the Bankruptcy Judges Advisory Group) to amend Rule 1006(b) to provide that courts may require a minimum initial payment with requests to pay filing fees in installments.

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that, although the Subcommittee did not fully discuss the suggestion, there was concern expressed by some members that requiring an initial installment payment at the time of filing might encourage eligible debtors in chapter 7 to file an application to waive the filing fee instead an application to pay in installments.

- (B) Oral report concerning Suggestion 12-BK-B by Matthew T. Loughney (on behalf of the Bankruptcy Noticing Working Group) to amend Rule 2002(f)(7) to require notice of the confirmation of the debtor's chapter 13 plan.

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that the Subcommittee will attempt to ascertain and review current practice to determine how many courts already require notice of confirmation of the debtor's chapter 13 plan and who does the notice (i.e., court, debtor or trustee).

- (C) Recommendation concerning Suggestion 12-BK-D by Judge S. Martin Teel, Jr., to amend Rule 7001(1) as it concerns compelling the debtor to deliver the value of property to the trustee.

Professor Gibson gave the report. She said that the Subcommittee had concluded that the proposed amendment should not be pursued for two reasons. First, the issue that provoked Judge Teel's suggestion does not appear to have caused much confusion in the courts. There is agreement that a trustee may proceed by motion to seek a turnover from the debtor of property of the estate or proceeds of the property and, when that property is money that the debtor no longer possesses, the turnover of an equivalent amount of money. The only disagreement concerns whether the trustee must proceed by way of an adversary proceeding to recover a money judgment for the value of non-cash property of the estate when neither the property nor its proceeds remain in the debtor's possession at the time of the turnover action. There is little case law on the question. The one decision that created the issue, *Price*, was an unpublished decision in 2006 that has not been cited for its procedural ruling in any other opinions.

Second, the Subcommittee concluded that a basis exists for limiting the Rule 7001(1) exception to "a proceeding to compel the debtor to deliver property to the trustee." A proceeding to recover a judgment against the debtor for the *value* of property that the debtor no longer possesses results in a money judgment that is enforceable by execution and levy on any of the debtor's non-exempt property. The Subcommittee concluded that there is a reasonable basis for treating such an action like most other proceedings to recover money or property—with the greater formalities required for an adversary proceeding. No member objected to the Subcommittee's recommendation. No further action will be taken.

- (D) Oral report concerning Comment 11-BK-12 by Judge Frank regarding the negative notice procedure for objections to claims in the proposed amendment to Rule 3007 that was published (and withdrawn).

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that in preliminary discussions, members on the Subcommittee were concerned about changing the burden of proof in a negative notice process, and whether negative notice would be sufficient if service was made only on the name and address on the filed proof of claim.

5. Report by the Chapter 13 Plan Form Working Group.

Recommendation by the Subcommittees on Consumer Issues and Forms concerning adopting a national chapter 13 plan form and amending Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009 in connection with adopting a plan form.

The Chair, Judge Perris and Professor McKenzie presented the recommendation of the Joint Subcommittee on Consumer Issues and Forms for publication of a national chapter 13 plan form and related rule amendments. Judge Perris said that the original suggestions for a national form for chapter 13 plans came from a bankruptcy judge and a group of state attorneys general. Bankruptcy judges were polled and most responded that a national form would be a good idea, and many recommended that the national form be based upon the local version currently in effect in their districts.

A central goal of the plan form is to improve procedures in chapter 13 practice. That goal has taken on heightened importance with the Supreme Court's decision in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (2010), which held that an order confirming a procedurally improper chapter 13 plan is nevertheless *res judicata*, and which emphasized the duty of bankruptcy judges to review chapter 13 plans for compliance with the law.

At its September 2012 meeting in Portland, Oregon, the Advisory Committee discussed drafts of the plan form and rule amendments prepared by the Advisory Committee's Chapter 13 Plan Form Working Group (Working Group). The Advisory Committee also approved a recommendation to hold a mini-conference on the draft plan and rules. That mini-conference, held in January 2013, brought together participants from a broad cross-section of groups interested in the chapter 13 process. The participants included chapter 13 trustees, bankruptcy judges, a court clerk, and representatives of creditors and consumer debtors. The Working Group incorporated the input received during the mini-conference, and the joint Subcommittees on Consumer Issues and Forms (Joint Subcommittee) provided additional input on the draft plan and rules.

Professor McKenzie said that the plan form contains three features that will be highlighted at the beginning of the document. First, it permits the debtor to limit the amount of a secured claim under § 506(a) of the Code, subject to a creditor's objection to confirmation. Second, the plan also permits the debtor to request the avoidance of certain liens impairing exemptions under Code § 522(f). Third, the plan includes a space in which the debtor may propose nonstandard provisions—that is, provisions not included in, or contrary to, the plan form. None of these features will be effective unless the debtor indicates, in the first part of the

document, that the plan contains that feature. One member suggested that a requirement to both complete the relevant section and then indicate that section had been completed at the beginning of the plan creates the possibility of inconsistencies, but other members pointed out that highlighting these three issues at the beginning of the plan provides heightened notice to the affected party, and that the plan is clear about what needs to be completed to make a provision effective.

The Joint Subcommittee concluded that effective implementation of the plan form will require conforming amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009. The amendments fall into three categories.

First, there are amendments that would affect the filing, processing, and treatment of claims. Rule 3002(a) would be amended to require a secured creditor to file a proof of claim in order to have an allowed claim. Rule 3002(c) changes the deadline for filing proofs of claim in chapter 13 cases to 60 days after the petition date so that the confirmation hearing date established by § 1324(b) of the Code could be set after all non-governmental proofs of claim are filed. The sixty-day period is extended to allow the filing of documentation required under Rule 3001(c)(1) and (d) for certain mortgage claims.

Several interrelated rule amendments would provide for circumstances when the plan will control over a contrary proof of claim. Amendments to Rules 3012 and 3015 provide that the plan may make a binding determination of the amount of a secured claim subject to ultimate resolution at the confirmation hearing. Amended Rule 3007, in turn, provides an exception to the need to file a claim objection if claim allowance is resolved under Rule 3012. Similarly, amended Rule 4003(d) makes clear that a plan may provide for avoidance of liens under 11 U.S.C. § 522(f). And amended Rule 7001 makes clear that an adversary proceeding is not necessary to determine the validity, priority, or extent of a lien resolved through a plan. Relatedly, if a lien encumbering property of the estate has been satisfied, amended Rule 5009(d) provides that the debtor may request an order documenting that the lien has been satisfied.

Second, several proposed rule amendments concern service and notice in chapter 13 cases. Amendments to Rule 3015 are intended to ensure that creditors receive a copy of the plan before confirmation and that any objections to confirmation are filed and served seven days before the confirmation hearing. Similarly, Rule 2002 would be amended to clarify the notice period before a confirmation hearing (28 days) and the deadline for filing objections to confirmation (21 days).

Some of the amendments require enhanced service. Rule 3012 would be amended to provide that a request to determine the amount of a secured claim under a plan must be served in accordance with Rule 7004's requirements for adversary proceedings. Similar service requirements are included in amended Rule 4003(d), which concerns a plan proposing lien avoidance under Code § 522(f). If a debtor requests an order declaring a lien satisfied under amended Rule 5009(d), service in accordance with Rule 7004 is also required.

Third, the Advisory Committee is proposing amendments to the Bankruptcy Rules that would limit deviations from the Official Form chapter 13 plan.

Rule 3015(c) would be amended to require the use of the Official Form plan and to make clear that provisions deviating from the Official Form are not effective unless they are placed in the part of the Official Form for nonstandard provisions (and identified accordingly).

The Advisory Committee considered alternative proposed revisions to Rule 9009, which were set out beginning at page 147 of the Agenda Book. Both versions would prohibit alterations of an Official Form, except when the Bankruptcy Rules or an Official Form itself would permit modification, and except for Official Form orders, which could be modified by a court in individual cases unless a Bankruptcy Rule or the Official Form itself provided otherwise. Both versions of proposed Rule 9009 also provide for alterations to forms with respect to fonts, and for the addition or deletion of spaces, as the case may be, when responding to an item.

The two versions of the proposed Rule 9009 differed, however, on whether a court could permissively adopt a localized version of a national form—to, for example, add a certificate of service to a form that must be served. The first version of the rule, on page 147 of the Agenda Book, would not allow such localization. Instead, the local court could adopt a supplemental form to handle the local requirement. The alternate variation, on page 149 of the Agenda Book, would permit but not allow a court to require that filers to use a localized version of an Official Form. **The Advisory Committee voted 7–5 to recommend publishing the first version of Rule 9009, as set out at page 147 of the Agenda Book, subject to review by the Style Subcommittee. The Advisory Committee voted unanimously to recommend publication of the proposed plan form and accompanying rule amendments.**

6. Joint Report by the Subcommittees on Consumer Issues and Forms.

- (A) Status report on mortgage rules and forms amendments discussed at the mini-conference in Portland, including requiring a detailed loan history and amending Rule 9009 to specify the extent to which Official Forms may be modified.

The Reporter gave a status report on the mortgage forms mini-conference. She said that several issues were raised at the meeting, including the possible need to adopt a national form detailing the loan payment history. There are still questions, she said, about the time frame any loan history should start, and servicers were concerned about local courts modifying any a national loan history form if one is adopted. Proposed revisions to Rule 9009, however, which are to be published this fall in connection with the nation chapter 13 plan discussed at Agenda Item 5 above, would limit the types of modifications that can be made to official bankruptcy forms. Accordingly, the Joint Subcommittee decided to wait until after the Rule 9009 comment period ends before considering further changes to the mortgage rules and forms. No recommendation is being made at this time.

- (B) Recommendation concerning Suggestion 11-BK-N by David S. Yen for a rule and form for applications to waive fees other than filing fees, under 28 U.S.C. § 1930(f)(2) and (f)(3).

Judge Harris gave the report. He said that the Joint Subcommittee had been asked at the September 2012 meeting to consider a Director’s Form for fee waivers under 28 U.S.C. § 1930(f)(2) and (f)(3). He said the Joint Subcommittee concluded that there is not a pressing need for a special form to request fee waivers under 28 U.S.C. § 1930(f)(2). There is already an official form that a chapter 7 debtor may use to request a waiver of the filing fee under 28 U.S.C. § 1930(f)(1). The information on that form would generally be relevant, or could be updated, if the chapter 7 debtor seeks a waiver of other fees under Section 1930(f)(2) later in the case.

Judge Harris said that 28 U.S.C. § 1930(f)(3) refers to fee waivers “in accordance with Judicial Conference policy.” The current Judicial Conference policy on fee waivers is limited to chapter 7 debtors. In 2005 the Judicial Conference adopted Interim Procedures Regarding Chapter 7 Fee Waiver Provisions. The procedures primarily address fee waivers under § 1930(f)(1), but they also state that “[o]ther fees scheduled by the Judicial Conference under 28 U.S.C. §§ 1930(b) and (c) may be waived in the discretion of the bankruptcy court or district court for individual debtors whose filing fee has been waived.” The interim procedures do not contain any reference to waiver of fees for creditors or for debtors who are not entitled to a fee waiver under § 1930(f)(1).

Judge Harris said that the Judicial Conference’s Committee on the Administration of the Bankruptcy System is currently considering a revision of the interim fee waiver procedures. The most recent draft of the revision does not address fee waivers under § 1930(f)(3). In light of the ongoing revisions of the fee waiver guidelines and the current absence of any Judicial Conference policy for waivers under § 1930(f)(3), the Joint Subcommittee recommends that the Advisory Committee refrain from acting further on a Director’s Form for fee waivers under § 1930(f)(3) until a Judicial Conference policy on this type of waiver is issued.

7. Report by the Subcommittee on Forms and the Forms Modernization Project.
  - (A) Report on the status of the Forms Modernization Project and recommendation concerning publication of the remaining new individual forms developed by the project, including revision of the exemption schedule as a result of the Supreme Court’s holding in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010).

*Forms Modernization Project and the Next Generation of CM/ECF*

Judge Perris gave an overview of the Forms Modernization Project (FMP) and how the FMP’s work has been coordinated with development of the next generation of case management and electronic case filing software (Next Gen).

The FMP is a working group of the Advisory Committee and consists of current and former members of the Forms Subcommittee, advisors from other Judicial Conference groups such as the Bankruptcy Judges Advisory Group and the Bankruptcy Clerks Advisory Group, advisors from the Federal Judicial Center, the Executive Office for United States Trustees, and a Bankruptcy Administrator. The FMP began its work modernizing the official bankruptcy forms in 2008. The dual goals of the FMP are to improve the language and format of official bankruptcy forms and to improve the interface between the forms and available technology, including the enhanced technology that will become available through the judiciary’s Next Gen program.

From a forms perspective, the major change in Next Gen will be the ability to store all information on forms as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose. Judge Perris said that the initial release of Next Gen, which would include report generating tools for internal court users, is planned for 2014.

As an initial matter, the FMP separated case opening forms for individual and non-individual debtors. Drafting of the individual forms is complete, and a subset of those forms (3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1 and 22C-2), were published for public comment in August

2012. The comments and recommendations for those nine forms are discussed at Agenda Items 7(B) and 7(C) below.

Judge Perris said there were several reasons the Advisory Committee published only a subset of individual forms in 2012, including the need for further refinements on some forms. A more important concern, however, was that it was unclear in 2012 whether Next Gen would be in place when the new forms were projected to go into effect on December 1, 2013. Putting all of the new forms into effect before the Next Gen report writing functions are available to the courts would likely increase the difficulty of transitioning to the new forms. On the other hand, having a small subset in place when Next Gen goes into effect will allow for fuller testing of the new forms before other modernized forms are approved.

Judge Perris said that the remaining individual debtor forms were presented to the Advisory Committee at its fall 2012 meeting and to the Standing Rules Committee at its winter 2012 meeting with a request for preliminary comments prior to publication. She said that those forms, set out in the Supplement to the Agenda Book beginning at page 91, have been revised to reflect the preliminary comments from the Advisory Committee and Standing Committee and also reflect formatting changes that were made as a result of general comments about the nine FMP forms that were published last August. The most significant formatting change since the Advisory Committee and Standing Committee last saw the forms that will be recommended for publication this year, she said, was a reduction in the use of shading and long black bars to separate the parts and sections on the new forms.

Judge Perris said that the non-individual forms are on track to be published for comment in August 2014. The FMP has completed initial drafts of most of the non-individual forms, she said, and has begun prepublication testing with groups of law clerks, law students, lawyers and judges.

Judge Perris said three issues needed to be resolved prior to a motion for publication of the remaining individual FMP forms in August 2013: (1) a revision of the proposal to modify the exemption schedule to account for the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010); (2) a request to change the lettering of the new schedules (discussed at Agenda Item 7(D) below); and (3) a recommendation for a delayed effective date of the renumbered individual forms.

#### Schwab v. Reilly and the Individual Debtor's Exemption Schedule

The Chair spoke about the proposed *Schwab* changes to the exemption schedule. He said that some members of the Standing Committee had been concerned that the proposal recommended by the Advisory Committee was unclear. As submitted to the Standing Committee, the exemption schedule had a blank line in the value column and an instruction at the top of the form that an exemption amount could be put in on the line, or the debtor could write on the line "full fair market value." The Chair said that as a result of the Standing Committee's concerns, the Joint Subcommittee recommended revising the exemption schedule to include two checkboxes: one checkbox that would allow the debtor to specify a dollar amount for the exemption, and a second checkbox that would allow the debtor to exempt "100% fair market value *up to the applicable statutory limit.*" The italicized language, he said, addressed a concern previously raised by case trustees that if a checkbox simply allowed the debtor to exempt "100% of full market value," debtors would routinely check the box without considering whether the exemption had a dollar limit specified by statute. By limiting the checkbox

exemption to 100% of full market value up to any applicable statutory limit, the Chair said, a debtor would be easily able to follow *Schwab* without prompting unnecessary objections from case trustees. **After a short discussion, the Advisory Committee recommended the revised exemption schedule for publication.**

Motion for delayed effective date of the remaining individual forms

Judge Perris explained that, depending on the Advisory Committee's decisions at Agenda Items 7(B) and 7(C), the forms published last fall (3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1 and 22C-2) are on track to go into effect December 1, 2013, and December 1, 2014. She said that there is no problem with the proposed effective dates for those forms because they are projected to replace existing versions that are used exclusively by individuals. Most of the forms to be published this August, however, are individual debtor versions of forms that are currently used by all debtors. Official Form 1, the current voluntary petition, for example, will be replaced by two FMP versions: one version for individual-debtors, Official Form 101, and another version for non-individual debtors, Official Form 201. Only the individual debtor version of the voluntary petition is complete and ready to be published this year, however.

Like the petition, there will be different versions of the schedules and the statement of financial affairs for individuals and non-individuals. The need for different versions of case opening forms for individuals and non-individuals required the FMP to develop a new numbering system for all the bankruptcy forms that both organizes the bankruptcy forms in a logical way and has some relationship to current form numbers. The basic numbering protocol for the new forms is:

- 1XX – Forms for Individuals Filing for Bankruptcy
- 2XX – Forms for Non-individual Filing for Bankruptcy
- 3XX – Orders and Court Notices
- 4XX – Additional Official Forms
- XXXX - Director's Forms

The new numbering system will make it difficult, Judge Perris said, to introduce renumbered forms piecemeal. She explained that the normal effective date for the renumbered individual-debtor forms to be published this August would be December 1, 2014. The Subcommittee recommended delaying the effective date until at least December 1, 2015, so that they can go into effect at the same time as the non-individual versions of the forms—which are about a year behind in development.

Judge Perris said that there are two reasons to synchronize the effective date of the individual and non-individual forms. First, as explained above, many of the individual-debtor forms being published this August are revisions of forms that currently apply in all bankruptcy cases, individual and non-individual. To avoid overlap and confusion, the non-individual forms should not go into effect until the current forms have been replaced for all cases. Second, the forms that will be published this August implement the new forms-numbering scheme described above. Delaying the effective date of the non-individual forms will allow there to be a uniform numbering scheme for all of the bankruptcy forms. The delay will also permit the bulk of the



modernized forms to go into effect after the first release of the Next Gen is fully operational, thus making it easier for court personnel to take advantage of the improved technology and interface.

In the meantime, courts will be able to work with a smaller subset of the new forms (3A, 3B, 6I and 6J scheduled to take effect December 1, 2013, and the means-test forms scheduled to take effect December 1, 2014), allowing time to adjust to the new format and technology features.

**A motion to publish the remaining individual forms, with a proposed effective date no earlier than December 1, 2015, passed without opposition.**

**NOTE:** The remaining individual-debtor forms to be published are set out beginning at page 91 of the Supplement to the Agenda Book. As set out in the Supplement, they are Official Forms 101, 101A, 101B, 104, 105, 107, 112, 119, 121, 318, 423, 427, and the debtor's schedules – 106A, 106B, 106, C, 106D, 106E, 106F, 106Dec, and 106Sum. As revised at Agenda Item 7(D), however, the schedules to be published will be labeled 106A/B, 106C, 106D, 106E/F, 106G, 106Dec, and 106Sum. A form number conversion chart for the individual-debtor forms is attached to these minutes.

- (B) Recommendation concerning comments received on the published amendments to Official Forms 3A, 3B, 6I, and 6J.

Judge Perris highlighted the more significant comments for proposed Official Forms 3A, 3B, 6I, and 6J. She added that the comments were more fully discussed in the agenda materials.

Judge Perris said that Official Forms 3A (Application for Individuals to Pay the Filing Fee in Installments), 3B (Application to Have the Chapter 7 Filing Fee Waived), 6I (Schedule I: Your Income), and 6J (Schedule J: Your Expenses) were selected for the initial implementation stage of the FMP because they make no significant change in substantive content and simply replace existing forms that apply only in individual-debtor cases. The restyled forms all involve the debtors' income and expenses, and they are employed by a range of users: the courts, U.S. trustees, and case trustees, for varied purposes.

In response to the publication of these forms—and of Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, discussed at Agenda Item 7(C) below—29 sets of comments were submitted, and one letter was informally submitted. Judge Perris said that the comments on the overall project and the published forms in general fell primarily into the following categories:

- support for the new forms;
- dislike of the new forms and a preference for maintaining the current forms;
- concern that the forms contain too much shading, too much white space, and too many pages, all of which will increase printing, mailing, and electronic transmission costs;
- concern that the forms will encourage *pro se* filings, to the detriment of the debtors and the courts; and
- the need for a clear statement about the extent to which software-generated forms can deviate from the graphic and formatting styles of the proposed forms, including the omission of instructions that are provided in the format of checkboxes and the omission or collapsing of inapplicable sections.

Judge Perris first discussed the most fundamental question—whether the project should proceed notwithstanding the preference of some commenters for the current forms. **After reviewing the reasons for the project and the guiding principles behind the redesign, the Advisory Committee unanimously concluded that the project should proceed.**

In response to the numerous comments about shading, **the Advisory Committee voted to accept the FMP’s recommendation that shading should largely be eliminated.** The Advisory Committee also agreed with the FMP’s proposed redesign of the forms, which retains the black banner for the “part” designation but uses a different format for the title of each part. Shading was largely eliminated from the balance of each of the forms. Members commented that these changes will reduce toner usage and increase the ease with which forms are printed and reproduced.

Judge Perris said that the increase in the length of the forms is a function of several factors. First, in an effort to increase accuracy and ease of use, and to create a form whose answers can populate a usable database of answers, more specific questions are asked, and the debtor is often prompted to provide an answer by selecting from a list of choices. Second, rather than providing a dense set of instructions at the beginning of a form and then blank spaces for the answers, many instructions are integrated throughout the form where the debtor is likely to need them. Third, more space is provided to answer some of the questions. Finally, examples are often included to help the debtor understand what information is being requested.

Judge Perris added that evaluating the length of the new forms before they are completed with debtor information is misleading because proposed revisions to Rule 9009, which is part of the chapter 13 plan form and rules package presented at this meeting for publication, will allow the filer to “collapse” question answers that do not require all the white space provided on the forms. In discussing this issue, members agreed that new design is likely to provide more accurate, usable information.

Judge Perris said that proposed Rule 9009 also provides guidance regarding the extent to which software-generated forms may deviate from the official forms.

Judge Perris said that whether the use of plain English and a more user-friendly design will encourage more *pro se* filings has been the subject of discussion since the beginning of the project. She said that FMP believes that the preparation of comprehensive instructions that explain the impact and complexity of a bankruptcy case and provide extensive warnings about the significance of filing for bankruptcy will discourage, not encourage, *pro se* filings. In addition, the FMP believes that it is important that forms be understandable by all debtors, including those who are represented, because debtors are required to sign the forms under penalty of perjury. The comments did not change those views.

*Comments on Official Form 3A.* Two sets of comments addressed this form specifically. Both suggested adding an option to the form allowing for payment a chapter 13 filing fee through the debtor’s plan. Districts differ on whether they permit this practice, and the current form does not expressly provide this option. Because the practice is not universal and the bankruptcy system has historically been able to accommodate the practice where it is allowed, the Subcommittee recommends that the form should remain silent regarding that option. The Advisory Committee agreed with the Subcommittee.

Line 2 of the published form stated that a debtor may ask the court to extend the deadline for payment of the final fee installment and that the debtor must explain why an extension is needed. One comment noted that no space was provided on the form for the explanation. Judge Perris said that the FMP contemplated that such an extension would require a separate application at a later time, and in order to avoid any confusion, recommended moving the statement about the possibility of an extension from the form to the separate form instructions. Judge Perris said that the change is consistent with the form currently in effect, which merely informs the debtor of the possibility of obtaining an extension “for cause shown” and does not ask the debtor to provide reasons for the extension as part of the application. **The Advisory Committee agreed with the proposed change.**

One comment suggested deleting the instruction in the signature box not to pay “anyone else in connection with your bankruptcy case” until the entire filing fee is paid because it would prohibit a debtor from making payments to a chapter 13 trustee before all of the installment payments are made. A member noted that current Official Form 3A includes the statement, “Until the filing fee is paid in full, I will not make any additional payment or transfer any additional property to an attorney or any other person *for services* in connection with this case” (emphasis added). **The Advisory Committee agreed with the FMP that the comment should be addressed by reinserting “for services” in the statement.**

*Comments on Official Form 3B.* Five comments were submitted regarding this form. Several of them stated that certain information asked for on the proposed form should be omitted because of its irrelevance to the waiver decision. The following information was suggested for deletion:

- line 3, non-cash government assistance;
- lines 12–16, various assets that the debtor owns;
- line 19, payment for bankruptcy services by someone else; and
- line 20, prior bankruptcy filings by the debtor or the debtor’s spouse.

The current version of the form asks for the second and third items of information listed above, and the Advisory Committee decided to continue requesting that information. The current form also asks for prior bankruptcy filings by the debtor, but not by the debtor’s spouse unless the spouse is also filing. Upon consideration of the comments, the FMP recommended deleting the request for information about prior filings of a non-filing spouse. **The Advisory Committee agreed with the FMP.**

Judge Perris said that the decision about how to respond to the first item, non-cash government assistance, was more complicated. The amount of non-cash government assistance may be relevant to determining whether a debtor is able to pay the filing fee in installments, since it may reduce the debtor’s other expenses, but it is not specifically asked for on current Official Form 3B. Instead, the current form simply asks for the total combined monthly income as computed on Schedule I. Restyled Schedule I as published asked debtors to include the value of “[o]ther government assistance.” Immediately preceding that question, it asked for “unemployment compensation” and “Social Security,” which might have suggested to some debtors that “other government assistance” referred only to other forms of cash assistance. At the same time, non-cash governmental assistance should not be counted in determining whether the debtor meets an income threshold for waiver eligibility. The interim procedures of the Judicial

Conference regarding chapter 7 fee waivers direct that “Non-cash governmental assistance (such as food stamps or housing subsidies) is not included [in income].”

Judge Perris said that, as a result of the comments, the FMP recommends rephrasing the requests for information about governmental assistance on both Official Form 3B and Schedule I to harmonize the two forms. In completing Official Form 3B, the debtor is permitted to use the income calculated on Schedule I. As revised, however, the income on Schedule I includes non-cash governmental assistance in income to the extent that the debtor knows the value of such assistance. Accordingly, on Official Form 3B it was necessary to have the debtor first report the amount of income including the value of non-cash assistance, and then deduct the value of such assistance to determine the amount of income for purposes of the fee waiver application. In addition, the FMP recommended revising both forms to clarify that the debtor only needs to include the value of non-cash governmental assistance to the extent known. **The Advisory Committee approved the changes recommended by the FMP.**

*Comments on Official Form 6I.* Judge Perris said that 14 comments specifically addressed this form. Several of them raised questions about when income information must be provided about non-filing spouses. In order to clarify the requirement, the FMP added the following instruction at the beginning of the form: “If you are married, not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse.” The form specifically asks for information about both spouses when they file jointly. **The Advisory Committee agreed with the FMP.**

In addition to the changes needed to coordinate Schedule I with Official Form 3A (discussed above) the FMP recommended two changes to the form’s list of payroll deductions. As revised in the agenda materials, Schedule I was amended to ask separately about mandatory and voluntary contributions to retirement plans. And a new specific payroll deduction for “domestic support obligations” was added in response to a comment that these deductions are sufficiently common to justify a specific listing. **The Advisory Committee approved the changes.**

*Comments on Official Form 6J.* Fifteen comments specifically addressed Schedule J. Judge Perris said that the part of the proposed form drawing the most comment was the inclusion in part 2 of column B (“For Chapter 13 Only – What your expenses will be if your current plan is confirmed”). Many commenters were uncertain about the purpose of that column and doubted whether debtors would provide useful information. The FMP recommended two changes in response to those comments. First, column B was eliminated. Second, in order to permit districts that currently allow debtors to use Schedules I and J to update their income and expense information, a new checkbox was added to both forms where a debtor can indicate that the information on the form is a “supplement as of the following post-petition date: \_\_\_\_\_.” **The Advisory Committee approved the changes recommended by the FMP.**

One commenter questioned the reason for the question, “Does anyone else live in your household?” Judge Perris said that the FMP concluded that the question was too broad, and recommended the following changes to Part 1 of Schedule J. First, questions 1 and 2 on the published form were combined into a single question asking about all of the debtor’s dependents, regardless of whether the dependents live with the debtor. Second, question 3 was revised to make its financial purpose clear. In the published version of the form, question 3 asked, “Does anyone else live in your household?” This was amended to read “Do your expenses include

expenses of people other than yourself and your dependents?” The question has been converted to a simple “yes/no” format. If the debtor’s Schedule J reveals that it includes expenses for people other than the debtor and the debtor’s dependents, interested parties may investigate further if warranted. **The Advisory Committee approved the changes.**

Several comments questioned the inclusion of student loan payments as an expense deduction in Schedule J. They argued that explicitly listing this deduction represented a policy decision that student loans can continue to be paid during a chapter 13 case without constituting unfair discrimination against other unsecured claims that are not being paid in full. Another comment contrasted the treatment of student loans with other nondischargeable debts that are not treated as deductions. In response, the category of student loans as a distinct line item was eliminated. Now debtors who are paying student loans as an expense may list those payments as an “other” installment payment on line 17 of the form. **The Advisory Committee approved the changes.**

Just as with Schedule I, some comments questioned the treatment of non-filing spouses on Schedule J. To eliminate the confusion, the FMP added the following instructions: “If you are married and are filing individually, include your non-filing spouse’s expenses unless you are separated. If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.” New question 1 affirmatively asks if debtor 2 lives in a separate household. If so, that debtor is directed to file a separate Schedule J. **The Advisory Committee approved the changes.**

**After approving the changes listed above, the Advisory Committee recommended that Official Forms 3A, 3B, 6I and 6J become effective on December 1, 2013.**

- (C) Recommendation concerning comments received on the published amendments to Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2.

The Chair discussed Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, the restyled means-test forms for individual debtors under chapter 7, 11, and 13, that were published for comment in August 2012. Eighteen sets of comments on the means-test forms were officially submitted, and one person informally provided the Advisory Committee with a detailed review of the forms. The Chair said that the comments ranged from suggestions and critiques regarding wording, style, and formatting of the forms to ones raising questions about interpretations of the Bankruptcy Code and case law. The FMP and the Forms Subcommittee carefully considered all of the comments. The Subcommittee determined that several of the comments were well taken, and recommended the following changes to the forms in response.

Creation of a separate form for chapter 7 means-test exemption and harmonizing the line numbers across the means-test forms.

The Chair explained that 11 U.S.C. § 707(b)(2)(D) exempts—either permanently or for a specified period—a small percentage of chapter 7 debtors from being subject to the means test. In the current chapter 7 means-test form (Official Form 22A) and the revised form that was published last summer (proposed Official Form 22A-1), information about eligibility for an exemption is asked for at the beginning of the form. Because of the complexity of the qualifying

requirements, this portion of the form occupies multiple line numbers and the entire first page of the form.

The Chair said that several comments were submitted regarding this part of the published form, and one comment suggested that because of its limited applicability, the questions that pertain to exemptions based on certain types of military service should be moved to the separate form. The Subcommittee agreed with the proposal and recommends that a separate supplement to Official Form 22A-1 be created, listing all exemption questions, to be used only when applicable. The Chair explained that the proposal would serve two purposes: It would unclutter Official Form 22A-1 by removing questions that are only occasionally applicable, and it would allow the Advisory Committee to address another criticism by adopting uniform line numbering in the three means-test forms dealing with income (22A-1, 22B, and 22C-1). Currently, the initial questions that were only in the chapter 7 form caused a misalignment of line numbers covering similar topics across the forms. **The Advisory Committee agreed with the Subcommittee's recommendation.**

New instruction about a domestic support obligation paid by one joint debtor or non-filing spouse to the other debtor.

The Chair said that a comment suggested that in any case where the income of both spouses is set out, there should not be a separate income item for the payment of a domestic support obligation from one spouse to the other. He said that the Subcommittee recommends adding an instruction to the relevant questions in order to prevent double reporting of the same income. **The Advisory Committee agreed.**

Changes to implement the *Hamilton v. Lanning* decision.

In *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), the Supreme Court held that the calculation of a chapter 13 debtor's projected disposable income under § 1325(b) requires consideration of changes to income or expenses reported elsewhere on Official Form 22C that, at the time of plan confirmation, had occurred or were virtually certain to occur. As published last summer, the Chair explained, proposed Official Form 22C-2 included a section that asked the debtor to report any income or expense listed on the form that "has changed or is virtually certain to change during the 12 months after the date you filed your bankruptcy petition."

The Chair said that two comments stated that the 12-month limitation should be eliminated because the *Lanning* decision does not support such a limitation. **The Advisory Committee agreed that the 12-month limitation should be eliminated from Official Form 22C-2. After the meeting, the *Lanning* instruction was revised to direct the debtor to indicate if reported income or expenses "have changed or are virtually certain to change after the date that you filed your bankruptcy petition and during the time your case will be open."**

The Chair said that another issue raised by the comments was whether Official Forms 22C-1 and 22C-2 should introduce an adjustment for changes in income, under the *Lanning* decision, for determining the applicable commitment period under 11 U.S.C. § 1325(b)(4). He said that at least one decision has accepted the argument that a change in the debtor's income from the calculation of current monthly income should similarly allow a change in the applicable commitment period. *In re Ducret*, 2011 WL 2621329 (Bankr. S.D. Fla. 2011). However, this decision was reversed on appeal, in a decision finding that the definition of § 101(10A) is

controlling, and that the *Lanning* decision is inapposite. *In re Ducret*, 2012 WL 4468376 at \*4 (S.D. Fla. 2012).

One member was in favor of an explicit adjustment. Another member said that the applicable commitment period could vary from the result stated in the form if the debtor's "current monthly income were calculated under § 101(10A)(A)(ii) of the Code rather than under § 101(10A)(A)(i), the method applicable where the debtor has timely filed the required income statement. **After a discussion, the Advisory Committee voted to add to the direction on the form for specifying the three-year commitment, "Unless otherwise ordered by the court . . .".**

The Chair said that another issue presented by the comments was whether the means test forms should continue to reject the holding in *Drummond v. Wiegand (In re Wiegand)*, 386 B.R. 238 (9th Cir. BAP 2008), that gross business and rental receipts are to be counted as "current monthly income" under § 101(10A).

The Chair said that the Advisory Committee rejected the logic of *Wiegand* when the means test forms were developed and had revisited the issue several times since then without changing the forms. *Wiegand*, he pointed out, is limited to chapter 13 cases, and is based on language in § 1325(b) that, before the means test was introduced in the 2005 Code amendments, allowed the deduction of business expenses from the income that a debtor could be required to pay into a chapter 13 plan. However, there is no indication that Congress considered this provision when it included the definition of current monthly income as part of the means test, which it made applicable to both chapter 7 and chapter 13 cases. Among other things, the Chair said, counting gross business receipts as "current monthly income" creates unreasonable distinctions between similarly situated debtors, giving a sole proprietor current monthly income based on the business's gross receipts, while giving the sole owner of an LLC or Chapter S corporation only the net profits of the business. Moreover, the Census Bureau's median state income, to which the debtor's current monthly income is compared, itself includes only net business income. And finally, the chapter 7 means test includes no deduction for business expenses, which would result in nearly all chapter 7 debtors operating a business having a presumption of abuse.

Since *Wiegand* was decided, the Chair said, three courts other than those in the Ninth Circuit have adopted the Ninth Circuit BAP's decision, and two courts have rejected it. One member suggested creating a supplement to deal with *Wiegand* but another member pointed out the case has been in effect in the Ninth Circuit for five years now, and bankruptcy practice appears to have adapted in that circuit without a change to the forms. After further discussion, only one member was in favor of adding a line to Official Form 22C-1 to report gross income for a debtor that operates a business.

The Chair said that another legal issue raised by the comments was whether Official Forms 22A-2, and 22C-2 should allow the use the *Johnson v. Zimmer* formula for determining the number of persons used in calculating National and Local IRS expense allowances. The current forms, the Chair said, incorporate the rule from the IRS Collection Financial Standards providing that the number of persons used to calculate IRS expense allowances should be the number that would be allowed as exemptions on the debtor's federal income tax return, plus the number of any additional dependents that the debtor supports. *Johnson v. Zimmer*, 686 F.3d 224 (4th Cir. 2012), the Chair said, uses a different, fractional economic unit approach. The Chair noted that there have been no reported decisions to date that follow the *Johnson v. Zimmer*

approach. After a discussion, no member favored changes to the forms to account for *Johnson v. Zimmer*.

**After the meeting, by email vote, the Advisory Committee approved for republication revised versions of Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, and new Official Form 22A-1Supp with the changes recommended in bold above.**

- (D) Alternative proposal by Judge Harris and Ms. Michaux to reletter proposed new Forms 106A, 106B, 106C, 106D, 106E, 106F, 106G, and 106H.

Committee members Judge Harris and Ms. Michaux presented an alternative to the relettering scheme proposed by the Advisory Committee for the new FMP schedules. Mr. Myers explained that early in its revision process, the FMP concluded that the existing order of schedules—listing property, then exemptions, and then debts was illogical, because a debtor first needs to know whether there is equity available in an asset before applying an exemption to that asset. The more logical approach, the FMP concluded, would be to list property, then claims—which allows the debtor to calculate equity, and then list exemptions. This reordering, however, plus the FMP’s decision to combine related schedules (personal and secured property schedules are combined into a single two-part property, and priority and non-priority claims are combined into a single two-part claims schedule), meant that the proposed new lettering scheme would not track the existing lettering scheme.

Judge Harris and Ms. Michaux suggested an alternative: representing the newly combined schedules by both letters of the schedules they were derived from (i.e., the FMP property schedule for individuals would be lettered 106A/B to show to it is derived from exiting Schedules 6A and 6B, and the claims schedule for individuals would be lettered 106E/F to show it was derived from existing schedules 6E and 6F). Under this proposal, the remaining schedules would retain their existing letter designations. Judge Harris and Ms. Michaux argued that their proposal would make the transition to the new forms much less disruptive since existing letter designations have become highly ingrained over the past 30 years.

**After discussing the alternatives, the Advisory Committee voted 7 to 5 in favor of the alternative proposal for renumbering.**

- (E) Report on automatic dollar adjustments to Official Forms 1, 6C, 6E, 7, 10, 22A, and 22C and Director’s Procedural Forms 200 and 283 on April 1, 2013, to conform to the dollar adjustments in the Bankruptcy Code, as provided in Section 104(a) of the Code.

Mr. Myers explained that under Section 104(a) of the Bankruptcy Code, certain dollar amounts stated in Bankruptcy Code sections are automatically updated to reflect changes in the consumer price index over the prior three years. The most recent adjustment, he said, which occurred on April 1, 2013, required adjustments to dollar amounts listed in the seven official bankruptcy forms and two director’s forms listed above. None of the changes require action by the Advisory Committee, Mr. Myers said, and the revised forms have already been posted on the court’s public website.

- 8. Report by the Subcommittee on Business Issues.



Recommendation concerning comments received on published amendments to Rules 7008, 7012, 7016, 9027, and 9033 which were proposed in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011).

Judge Wizmur gave the report. She explained that currently the Bankruptcy Rules follow the division between core and non-core proceedings set forth in 28 U.S.C. § 157. With respect to proceedings that are core under the statute, she said, the rules contemplate that the bankruptcy judge may enter a final judgment. If a proceeding is non-core, on the other hand, the rules and statute contemplate that the bankruptcy judge will issue a report and recommendation to the district court, unless all parties consent to entry of a final judgment by the bankruptcy judge.

*Stern* held that a bankruptcy judge did not have authority under Article III of the Constitution to enter final judgment in a proceeding that was listed as core under 28 U.S.C. § 157(b)(2). Accordingly, reference in the rules to core and non-core no longer clarify whether the bankruptcy court has authority to enter a final judgment. As a result of *Stern*, the Advisory Committee proposed to amend the Bankruptcy Rules in three respects. First, the terms core and non-core would be removed from Rules 7008, 7012, 9027, and 9033 to avoid possible confusion in light of *Stern*. Second, in all bankruptcy proceedings (including removed actions), the parties would need to state whether they do or do not consent to entry of final orders or judgment by the bankruptcy judge. Third, Rule 7016, which governs pretrial procedures, would be amended to direct bankruptcy courts to decide the proper treatment of proceedings.

The Advisory Committee received eight comments on all or part of these proposed amendments. In the main, the comments expressed support for the amendments but raised five issues:

- (1) whether to retain the terms “core” and “non-core”;
- (2) whether references to the “bankruptcy court” in the published amendments should revert to the “bankruptcy judge,” the term that is currently used;
- (3) whether to provide procedures for treating as proposed findings and conclusions a bankruptcy judge's decision entered as a final order or judgment when that decision is later determined to be beyond the bankruptcy judge's final adjudicatory power;
- (4) whether to require a statement as to consent when a litigant proceeds by motion before filing a formal pleading; and
- (5) whether to provide that a litigant may consent to final adjudication by a bankruptcy judge with respect to part, but not the whole, of a proceeding.

**After reviewing the comments, the Advisory Committee voted unanimously to recommend final approval of the published amendments.** With respect to the first three issues raised by the comments, these points were thoroughly considered before publication of the amendments. The Advisory Committee did not find that the comments raised new concerns that would justify revisiting those issues. Issues (4) and (5), on the other hand, were not considered previously. The Advisory Committee nevertheless concluded that the comments raising those issues, although presenting possible suggestions for future rulemaking, did not require alteration of the published amendments. Similarly, the Advisory Committee concluded that a comment by the Bankruptcy Clerks Advisory Group regarding the requirement of service of notice by mail

under current Rules 9027 and 9033 might be considered for future rulemaking but was beyond the scope of the *Stern*-related amendments.

9. Report by the Subcommittee on Privacy, Public Access, and Appeals.

- (A) Recommendation concerning comments received on published amendments to Rules 8001–8028, the proposed revision of the bankruptcy appellate rules, and to Rules 9023 and 9024, amended to refer to the procedure in proposed new Rule 8008 governing indicative rulings.

The Reporter first addressed the proposed revisions to Rules 9023 and 9024 to incorporate a cross-reference to Rule 8008 regarding indicative rulings. The National Bankruptcy Conference suggested adding the cross reference to committee notes for Rules 9023 and 9024, instead of in the rules themselves, but committee notes are historical and can only be added when rules are updated, **so the Advisory Committee recommended Rules 9023 and 9024 for final approval as published.**

The Reporter explained that published revisions to Rules 8001–8028 (Part VIII of the Bankruptcy Rules) are the products of a comprehensive revision of the rules governing bankruptcy appeals to district courts, bankruptcy appellate panels, and, with respect to some procedures, courts of appeals. They result from a multi-year project to bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure (FRAP); to incorporate a presumption favoring the electronic transmission, filing, and service of court documents; and to adopt a clearer style. Existing rules were reorganized and renumbered, some rules were combined, and provisions of other rules were moved to new locations. Much of the language of the existing rules was restyled.

She said that 14 sets of comments were submitted in response to the publication of these rules. Many of the comments were lengthy and detailed and demonstrated the commenters' careful review of the published rules and provided suggestions on issues of style, organization, and substance. The Reporter said that in considering the comments, the Subcommittee was guided by the goal of maintaining close adherence to the FRAP, except where those rules are incompatible with bankruptcy appeals. It also recommended postponing for future consideration a number of suggestions that would change existing practice or raise policy issues requiring careful consideration.

In general, the Reporter said, the comments displayed a positive response to the proposed revision of the Part VIII rules. She discussed the more significant comments, as set forth below, and noted that a more complete listing of comments and changes recommended by the Subcommittee was included in the agenda materials.

*General Comments.* Two bankruptcy judges and the National Conference of Bankruptcy Judges praised the revision of the Part VIII rules, stating that it would lead to improved quality of bankruptcy appellate practice, reduce confusion, and yield a more efficient and effective bankruptcy appellate practice.

*Rule 8002.* Two comments expressed concern about the inclusion of an inmate mailbox rule, which deems a notice of appeal by an inmate timely filed if it is deposited in the institution's internal mail system on or before the last day for filing. The commenters stated that this rule could delay for several days the determination that a bankruptcy court order or judgment

has become final. The Subcommittee continued to support the inclusion of this provision in order to mirror FRAP 4(c). It believed that, given the rarity of inmate appeals in bankruptcy cases, the impact of the provision on finality will be limited. **A motion to change the title of 8002(b)(3) to “Appealing the Ruling on the Motion” was approved.**

*Rule 8003.* Several comments pointed out that the provision in subdivision (d) directing the clerk of the appellate court to docket an appeal “under the title of the bankruptcy court action” was unclear since “action” might refer to the overall bankruptcy case or to an adversary proceeding within the case. The Subcommittee agreed that this was an instance in which the FRAP language needs to be modified for the bankruptcy context. **The Advisory Committee voted to change the wording in Rule 8003(d)(2) and the parallel provision in Rule 8004(c)(2) to “under the title of the bankruptcy case and the title of any adversary proceeding.”**

*Rule 8004.* The clerk of a bankruptcy appellate panel (“BAP”) commented on the provision of subdivision (c)(3) that directed the dismissal of an appeal if leave to appeal is denied. She stated that appellants sometimes file a motion for leave to appeal when leave is not required and in that situation, although the motion is denied, dismissal is not appropriate. **The Advisory Committee voted to delete the sentence in question, which is not contained in either the current bankruptcy rule or the FRAP rule from which the proposed rule is derived.**

One comment pointed out an inconsistency between proposed Rule 8003 and Rule 8004. Rule 8003(c) requires the bankruptcy clerk to serve the notice of appeal, whereas Rule 8004(a) places that duty on the appellant (along with the motion for leave to appeal). This difference is a carryover from existing practice. **The Advisory Committee decided to consider in the future whether the service requirement should be the same in both rules.**

*Rule 8005.* Several comments questioned whether an election to have an appeal heard by the district court, rather than the BAP, must still be made by a statement in a separate document. Subdivision (a) of the proposed rule refers to an official form that did not exist at the time the rule was published, and some comments also expressed confusion about that reference. At Agenda Item 9(B) below, the Advisory Committee recommended publication an amendment to the notice of appeal form, Official Form 17A, that will include a section for making an election under this rule. That form, which if approved will take effect on the same date as the rule, will clarify that the separate-document rule no longer applies. The Subcommittee also recommended updating the committee note to indicate that a statement electing to have the appeal heard by the district court “must be made using the appropriate Official Form.” One member noted, however, that the Official Form would be created by attorneys using word processors, not simply downloaded of the public website and filled out, and suggested retaining the committee note as published on this point to say “the statement must *conform substantially* to the appropriate Official Form.” **The motion to retain “conform substantially” was approved.**

Two comments addressed the procedure that should apply when an appellee elects to have the district court hear an appeal that was initially sent to the BAP. The Subcommittee agreed with one of the comments that the BAP clerk should notify the bankruptcy clerk if an appeal is transferred to the district court, and it voted to add a sentence to that effect in subdivision (b) as set forth in the agenda materials. **The Advisory Committee approved the addition.**

*Rule 8006.* Two comments stated that the proposed rule does not give the bankruptcy court sufficient time to certify a direct appeal to the court of appeals. Under subdivision (b), a matter is deemed to remain pending in the bankruptcy court for purposes of this rule for 30 days after the effective date of the first notice of appeal. The Subcommittee decided that this time limit strikes an appropriate balance between giving the bankruptcy court time to decide whether to certify a direct appeal and letting the district court or BAP know at a reasonably early time that a certification for direct appeal will not be coming from the bankruptcy court. However, the Subcommittee did add cross-references to Rule 8002 and FRAP 6(c), and deleted a cross-reference to 9014. **The Advisory Committee approved the changes.**

*Rule 8007.* Two comments questioned the provision of the published rule that appeared to permit a party to seek a stay pending appeal in an appellate court before a notice of appeal has been filed. The comments took the position that, until a notice of appeal is filed, the appellate court lacks jurisdiction to rule on a stay motion. The Subcommittee agreed and recommended deleting “or where it will be taken” from 8007(b)(2) to eliminate a possible reading of the rule that would permit the filing a motion for a stay in the appellate court prior to the filing of a notice of appeal. **The Advisory Committee approved the change.**

*Rule 8009.* Two bankruptcy judges and the Bankruptcy Clerks Advisory Group submitted comments stating that the practice of having the parties designate the record on appeal is now outdated and that the 8th Circuit BAP’s rule regarding the record should be adopted. Under that rule the record before the bankruptcy court is the record on appeal, and parties refer by number to the appropriate bankruptcy court docket entries in their appellate briefs. BAP judges are able to review the entire bankruptcy court record electronically. The Subcommittee recommended that the rule should remain as published but that this issue should be taken up for consideration in the future. **The Advisory Committee agreed to consider the issue in the future.**

Several comments objected to two FRAP provisions that were included in this rule: subdivision (c) that permits a statement of the evidence when a transcript is unavailable, and subdivision (d) that permits an agreed statement as the record on appeal. As to both, the Subcommittee and the Advisory Committee favored remaining consistent with the parallel FRAP provisions.

**The Advisory Committee approved the addition of language clarifying the designation of the bankruptcy record should be filed with the bankruptcy clerk.**

*Rule 8010.* Three comments noted that, while subdivision (b)(1) directs the bankruptcy clerk to transmit the record to the appellate clerk when it is complete, it does not specify what the clerk should do if the record is never completed. **The Advisory Committee voted to add this issue to the list of matters for future consideration.**

*Rule 8013.* One comment suggested that district courts be allowed to require a notice of motion in bankruptcy appeals if they otherwise follow that practice in their court. Another comment made a similar suggestion concerning proposed orders. **The Advisory Committee agreed with these comments and added “Unless the court orders otherwise” to subdivision (a)(2)(D)(ii).**

Another comment questioned why a rule allowing intervention on appeal is necessary and whether a party moving to intervene would have standing. The Subcommittee concluded that it is not always clear who is a party to a contested matter, so someone affected by an order being

appealed may want to intervene to participate in the appeal. Likewise, a United States trustee may need this authority to participate in some appeals.

*Rule 8016.* Two comments raised questions about subdivision (f), which addressed the consequences of failing to file a brief on time. It was unclear why the provision was located in the rule governing cross-appeals, and it seemed to be inconsistent with a provision in Rule 8018. **The Advisory Committee thought that the comments were well taken, and it voted to delete the subdivision.**

*Rule 8017.* The States' Association of Bankruptcy Attorneys commented that all governmental units, not just the United States and states, should be permitted to file an amicus brief without consent or leave of court. The Advisory Committee made no change, adhering to the decision to make the bankruptcy rule consistent with FRAP 29.

*Rule 8018.* A bankruptcy judge commented that the authorization in subdivision (f) for dismissal of an appeal or cross-appeal should require notice and an opportunity to show cause why the appeal should not be dismissed. **The Advisory Committee voted to reword the provision to clarify that dismissal can occur only upon motion of a party or on the court's own motion, after which the appellant would have an opportunity to respond.**

*Rule 8019.* One comment stated that there should not be a presumption in favor of oral argument and that the grounds for not allowing it should not be limited. The Advisory Committee made no change to the proposed rule, which is consistent with current Rule 8012 and FRAP 34(a)(2).

Another comment asserted that there is an inconsistency between subdivision (b), which requires a unanimous vote of a BAP panel to dispense with oral argument, and subdivision (g), which allows a BAP panel by majority vote to require oral argument when the parties agree to submit the case on the briefs. The Advisory Committee concluded that these provisions are consistent with FRAP 34(a)(2) and (f) and with the presumption in favor of oral argument.

*Rule 8021.* The States' Association of Bankruptcy Attorneys commented that subdivision (b), which permits the assessment of costs for or against the United States, its agencies, and officers only if authorized by law, should apply to all governmental units. The Advisory Committee made no change to this provision, which is consistent with FRAP 39(b).

*Rule 8023.* The National Conference of Bankruptcy Judges (NCBJ) suggested two issues for future consideration by the Advisory Committee relating to this rule, which governs voluntary dismissals of appeals. (1) In the bankruptcy court, Rule 7041 requires a plaintiff seeking to dismiss an adversary proceeding objecting to the debtor's discharge to provide notice to certain parties and obtain a court order containing appropriate terms and conditions. The NCBJ suggests the need for similar safeguards when that type of proceeding is voluntarily dismissed on appeal. (2) Under Rule 9019 a trustee is required to obtain court approval of any compromise or settlement. The NCBJ stated that it is not clear how Rule 9019 relates to this rule. **The Advisory Committee added these issues to its list of matters for future consideration.**

*Rule 8024.* The NCBJ commented that the rule carries forward a problem in current Rule 8016: It does not provide for the issuance of a mandate by the appellate court and thus does not make clear when jurisdiction reverts in the bankruptcy court after the conclusion of an appeal. While the existing rule does not appear to be disrupting bankruptcy administration unduly, the

comment suggested that the Advisory Committee consider this issue in the future. **The Advisory Committee agreed to do so.**

**The Advisory Committee unanimously recommended the revised Part VIII Rules for final approval with the post-publication changes set forth in the agenda materials and as further revised at the meeting.**

- (B) Recommendation by Judge Perris and Professor Gibson concerning revising and renumbering Official Form 17A, Notice of Appeal, to include an election by the appellant to have an appeal heard by the district court; adopting new Official Form 17B, Statement of Election by Appellee(s); and adopting new Official Form 17C, Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2).

Judge Perris discussed the proposed forms.

Proposed Official Form 17A would include in the Notice of Appeal a section for the appellant's optional statement of election to have the appeal heard by the district court rather than by the bankruptcy appellate panel. It would only be applicable in districts for which appeals to a bankruptcy appellate panel have been authorized. Inclusion of the statement in the notice of appeal would ensure compliance with the statutory requirement that an appellant make its election to have the district court hear its appeal "at the time of filing the appeal." 28 U.S.C. § 158(c)(1)(A).

New Official Form 17B—the Optional Appellee Statement of Election to Proceed in the District Court—would be the form that an appellee would file if it wanted the appeal to be heard by the district court and the appellant or another appellee had not made that election. To comply with § 158(c)(1)(B), the appellee would have to file the form within 30 days after service of the notice of appeal.

New Official Form 17C—Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2)—would provide a means for a party to certify compliance with the provisions of the bankruptcy appellate rules that prescribe limitations on brief length based on number of words or lines of text (the "type-volume limitation"). It is based on Appellate Form 6, which implements the parallel provisions of FRAP 32(a)(7)(B).

**The Advisory Committee voted to recommend that the appellate forms be published this August so that they will be on track to go into effect on December 1, 2014, the same anticipated effective date for the revised Part VIII rules.**

10. Report by the Subcommittee on Technology and Cross Border Insolvency.

Recommendation concerning adopting a bankruptcy rule establishing standards for electronic signatures.

Mr. Baxter gave the report. A request for a national rule governing electronic signature came to the Advisory Committee from the Forms Modernization Project and from the Court Administration and Case Management Committee (CACM). He referred members to the Reporter's memo of March 13, 2013, at page 321 of the Agenda Book for further background.

The need for a national rule governing electronic signatures, which would change the practice currently existing in many districts, was prompted by several concerns: the lack of uniformity of retention periods required by local rules, the burden placed on lawyers and courts to retain a large volume of paper, and potential conflicts of interest imposed on lawyers who are required to retain documents that could be used as evidence against their clients. At its fall 2012 meeting, the Advisory Committee referred the matter to the Subcommittee.

The Subcommittee, Mr. Baxter said, considered various options and ultimately recommended for publication an amendment to Rule 5005 that would prescribe the circumstances under which electronic signatures may be treated in the same manner as handwritten signatures without the need for anyone to retain paper documents with original signatures. The amended rule would supersede any conflicting local rules.

A new subdivision (a)(3) would be added to Rule 5005 to address the effect of signatures in documents that are electronically filed. One provision would apply to persons who are registered users of a court's electronic filing system and would adopt as the national rule the practice that currently exists in virtually all districts: the user name and password of an individual who is registered to use the CM/ECF system would be treated as that person's signature for all documents that are electronically filed. That signature could then be treated the same as a handwritten signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

The other proposed provision would apply to the signatures of debtors or other persons who are not registered to file electronically. When a document (such as petitions, schedules, and declarations) is signed by someone who is not a registered user of CM/ECF, it could be filed electronically along with a scanned image of the signature page bearing the individual's actual signature. The document would then be stored electronically by the court, and neither the court nor the filing attorney would be required to retain a paper copy. Moreover, scanned signature pages, filed electronically in accordance with the proposed new rule, could be treated the same as a handwritten signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

The Advisory Committee discussed the Subcommittee's recommendation, and reviewed the proposed new language to Rule 5005. Mr. Kohn said that he spoke with several lawyers from the Department of Justice and that there was concern about verification of the scanned signature. Some prosecutors, he said, would prefer that the actual signature be maintained by someone, or that some other authentication system be built in—for example notarization, or authentication by the case trustee at the 341 meeting of creditors. He suggested that the Advisory Committee defer for now, and perhaps work on the rule with the Advisory Committee on Evidence.

Judge Wedoff said that at the Standing Committee's January 2013 meeting, he explained that the Subcommittee was considering a rule change that would allow the scanned image of the signature of a debtor to be treated as a valid signature without the need for retention of the original hand-signed document by the court or the attorney. He said that there were no objections to continued consideration of a bankruptcy rule along these lines. He said he thought publication would be an opportunity for comments from those concerned about not retaining hand-signed documents.

Dr. Molly Johnson said that in conducting research on the current use of scanned signature, she received feedback from U.S. trustees, chapter 7 case trustees, and the Executive

Office for United States Attorneys (EOUSA). She said that feedback was consistent with Mr. Kohn's comments and that there was a preference for handwritten signatures affixed to original documents, but that there was also a recognition that scanned images of signatures might work. Ms. Johnson said that due to a limited response time, the EOUSA was unable to provide written feedback considering possible alternatives being considered, but its representative indicated that they were very interested in the proposal, and that they would present formal comments if a rule is published.

**After additional discussion, the Advisory Committee voted unanimously to recommend publication of the proposed amendments to Rule 5005 in August 2013.**

11. Recommendations concerning comments received on published amendments to Rules 1014(b), 7004(e), 7008(b), and 7054. [

*Bankruptcy Rule 1014(b).*

Professor Gibson reviewed the comments on the proposed amendment to Rule 1014(b). That rule, she explained, governs the procedure for determining where cases will proceed if petitions are filed in different districts by, against, or regarding the same debtor or related debtors. As revised, the rule would address uncertainty about what events trigger the stay in a subsequently filed petition by requiring an order from the first court. It would also permit a judicial determination—not just a party's assertion—that the rule applied and that a stay of other proceedings was needed.

Professor Gibson said four sets of comments were submitted. The comments raised issues about (1) whether the first court has authority to enjoin parties to cases in other courts; (2) whether the first court has the exclusive authority to determine the venue of the related cases; (3) who may seek a venue determination in the first court; and (4) whether the proposed rule would reduce inter-court cooperation. Some of the comments also suggested wording changes. For reasons discussed in Professor Gibson's March 22, 2013 memo at page 471 of the Supplemental Materials, she recommended that the amendment go into effect as published, with the following exception: at line 16 of the proposed rule (on page 477 of the Supplemental materials) replace the word "these" with "the effected cases." **The proposed revision was approved, and a recommendation for final approval passed without objection.**

*Bankruptcy Rule 7004(e).*

Professor McKenzie said that the Advisory Committee there were four comments on the amendment to Rule 7004(e). The proposed amendment would shorten the time during which a summons is valid from 14 days to 7 days after it is issued. The change is intended to ensure that the defendant has sufficient time to respond to a complaint in bankruptcy litigation. Although Rule 7012(a) gives a defendant (other than a United States officer or agency) 30 days to answer a complaint, the time period is measured from the date the summons is issued, not when it is served. Accordingly, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond in a bankruptcy proceeding.

Professor McKenzie said that each of the four comments raise the same issue—that a 7-day window to serve a summons may be too short in some circumstances. The Business Subcommittee considered this possibility when it suggested the amendment. At that time, it concluded that a 7-day window would be sufficient in the vast majority of cases, and that the



infrequent situations where a longer period is needed could be best handled through a request for an enlargement of time under Rule 9006. Professor McKenzie said that the comments did not change that view.

**After discussing the comments, the Advisory Committee recommended final approval of Rule 7004(e) as published. It also approved the concept of adding a sentence to the committee note that highlights the opportunity to seek an extension of time under Rule 9006 in appropriate circumstances.**

*Bankruptcy Rules 7008(b) and 7054.*

The Reporter reviewed the comments on Bankruptcy Rules 7054 and 7008. She said that the proposed amendments to those rules would change the procedure for seeking attorney's fees in bankruptcy proceedings. Rule 7054 would be amended to include much of the substance of Civil Rule 54(d)(2). Rule 7008(b), which currently addresses attorney's fees, would be deleted. By bringing the bankruptcy rules into closer alignment with the civil rules, the amendments would eliminate a potential trap for an attorney, particularly one familiar with the civil rules, who might overlook the Rule 7008(b) requirement to plead a request for attorney's fees as a claim in the complaint, answer, or other pleading. As under the civil rules, the procedure for seeking an award of attorney's fees would be governed exclusively by Rule 7054, unless the governing substantive law requires the fees to be proved at trial as an element of damages.

Professor Gibson said that there were two comments on the proposal. Comment 12-BK-044 supported the changes. Comment 12-BK-010, submitted by the State's Association of Bankruptcy Attorneys ("SABA"), did not address the proposed changes. Instead, the SABA comment addressed the sentence in Rule 7054(b)(1) that permits the award of costs against the United States, its officers and agencies only to the extent permitted by law. SABA suggested that the provision be broadened to apply to all governmental units.

After a short discussion, the Advisory Committee decided not to take up the SABA suggestion, and **voted to recommend final approval of the proposed attorney fee changes to Rules 7008 and 7054 as published.**

12. Oral report by the Subcommittee on Attorney Conduct and Health Care.

Judge Jonker said that there was no business before the Subcommittee since the last Advisory Committee meeting.

#### Discussion Items

13. Oral report on Suggestion 13-BK-A by David W. Ostrander to include the debtor's age on the Statement of Financial Affairs or the Schedules of Assets and Liabilities.

Assigned to the Forms Subcommittee.

14. Oral report on Suggestion 13-BK-B by Judges Eric L. Frank and Bruce I. Fox to amend Official Form 1, the Voluntary Petition, to include checkboxes for the documents Section 1116(1) of the Bankruptcy Code requires small business debtors to file.

Assigned to the Forms Subcommittee.

15. Oral report on Suggestion 12-BK-M by Judge Scott W. Dales to amend Rule 2002(h) to mitigate the cost of giving notice to creditors who have not filed proofs of claim.

Assigned to the Consumer Subcommittee.

16. Oral report on Suggestion 13-BK-C by the American Bankruptcy Institute's Task Force on National Ethics Standards to amend Rule 2014 to specify the relevant connections that must be described in the verified statement accompanying an application to employ professionals.

Assigned to the Subcommittee on Attorney Conduct and Health Care.

17. Oral report on Judge William G. Young's suggestion to abolish Bankruptcy Appellate Panels (BAPs) and to assign bankruptcy appeals from courts with high caseloads to courts with low caseloads.

The Chair explained that this issue, which would likely require changes to the Bankruptcy Code and Rules if implemented, is being considered by the Advisory Committee on the Administration of the Bankruptcy System.

#### Information Items

18. Oral report on the status of bankruptcy-related legislation.

Mr. Wannamaker reviewed bankruptcy-related legislation currently pending in Congress.

19. Oral update on opinions interpreting Section 109(h) of the Bankruptcy Code.

The Reporter said that there are now three cases that have addressed the 2010 technical update to 11 U.S.C. § 109(h) that appear to allow an individual to take the required credit counseling course *after* the petition is filed, so long as the course is taken on the same day. She said each of three courts reviewing the new language, however, have concluded that the course must be taken *before* the case is filed. **The Advisory Committee agreed that further reports would be unnecessary unless a split of authority among courts develops.**

20. *Bull Pen.*

Amendment to Official Form 23 to implement the proposed amendment to Rule 1007(b)(7) which would authorize providers of financial management course providers to file notification of the debtor's completion of the course, approved at September 2010 meeting.

**The Advisory Committee recommended that Official Form 23 be removed from the bull pen and go into effect December 1, 2013, along with the related amendment to Rule 1007(b)(7) that is scheduled to take effect December 1, 2013.**

21. Rules Docket.

Mr. Wannamaker asked members to review the Rules Tracking Docket and to email him with any needed changes.

22. Future meetings: Fall 2013 meeting, September 24–25, in Minneapolis. Possible locations for the spring 2014 meeting.

The Chair suggested Austin, Texas, for the spring 2014 meeting.

23. New business.

No new business.

24. Adjourn.

Respectfully submitted,

Scott Myers

## Conversion Chart for Modernized Bankruptcy Forms for Individual Debtors

Current Schedule Number	Current schedule name	FMP schedule name	FMP label (agenda book)	FMP label (revised)	Proposed effective date
1	Voluntary Petition – including Exhibits A, C and D	Voluntary Petition for Individuals Filing for Bankruptcy ( <i>incorporates former exhibits</i> )	101	same	12/15
		Initial Statement About an Eviction Judgment Against You ( <i>formally part of petition</i> ).	101A	same	12/15
		Statement About Payment of an Eviction Judgment Against You ( <i>formally part of petition</i> ).	101B	same	12/15
3A	Application and Order to Pay Filing Fee in Installments	Application for Individuals to Pay the Filing Fee in Installments	103A (pub as 3A in 2012)	same	12/13 as 3A; 12/15 as 103A
3B	Application for Waiver of Chapter 7 Filing Fee	Application to Have the Chapter 7 Filing Fee Waived	103B (pub as 3B in 2012)	same	12/13 as 3B; 12/15 as 103B
4	List of Creditors Holding 20 Largest Unsecured Claims	For Individual Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders ( <i>individuals</i> )	104	same	12/15
5	Involuntary Petition	Involuntary Petition Against an Individual	105	same	12/15
6A	Real Property	Property ( <i>combines real and personal property, individuals</i> )	106A	106A/B	12/15
6B	Personal Property				
6C	Property Claimed as Exempt				
6D	Creditors Holding Secured Claims	Creditors Who Hold Claims Secured By Property ( <i>against individuals</i> )	106B	106D	12/15
6E	Creditors Holding Unsecured Priority Claims	Creditors Who Have Unsecured Claims ( <i>against individuals, combines priority and non-priority</i> )	106C	106E/F	12/15
6F	Creditors Holding Unsecured Nonpriority Claims				
6G	Executory Contracts and Unexpired Leases	Executory Contracts and Unexpired Leases ( <i>individuals</i> )	106E	106G	12/15
6H	Codebtors	Your Codebtors ( <i>individuals</i> )	106F	106H	12/15
6I	Executory Contracts and Unexpired Leases	Your Income ( <i>individuals</i> )	106G (pub as 6I in 2012)	106I	12/13 as 6I; 12/1/15 as 106I
6J	Current Income of Individual Debtor(s)	Your Expenses ( <i>individuals</i> )	106H (pub as 6J in 2012)	106J	12/13 as 6J; 12/1/15 as 106J
7	Statement of Financial Affairs	Statement of Financial Affairs for Individuals Filing for Bankruptcy	107	same	12/1/15
22A	Statement of Current Monthly Income and Means Test Calculation (Chapter 7)	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation ( <i>published as 22A-1</i> )	108-1	same	12/14 as 22A-1; 12/15 as 108-1
		Chapter 7 means test exclusion attachment ( <i>published as 22A-1Supp</i> )	108-1Supp	same	12/14 as 22A-1Supp; 12/15 as 108-1Supp
		Chapter 7 Means Test Calculation ( <i>published as 22A-2</i> )	108-2	same	12/14 as 22A-2; 12/15 as 108-2

Current Schedule Number	Current schedule name	FMP schedule name	FMP label (agenda book)	FMP label (revised)	Proposed effective date
22B	Statement of Current Monthly Income (Chapter 11)	Chapter 11 Statement of Your Current Monthly Income ( <i>published as 22B</i> )	<b>109</b>	same	<b>12/14 as 22B;</b> 12/15 as 109
22C	Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)	}	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period ( <i>published as 22C-1</i> )	same	<b>12/14 as 22C-1;</b> 12/15 as 110-1
			Chapter 13 Calculation of Your Disposable Income ( <i>published as 22C-2</i> )	same	<b>12/14 as 22C-2;</b> 12/15 as 110-2
8	Chapter 7 Individual Debtor's Statement of Intention	Statement of Intention for Individuals Filing Under Chapter 7	<b>112</b>	same	12/1/15
19	Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer	Bankruptcy Petition Preparer's Notice, Declaration and Signature	<b>119</b>	same	12/1/15
21	Statement of Social Security Number	Your Statement About Your Social Security Numbers	<b>121</b>	same	12/1/15
18	Discharge of Debtor	Order of Discharge	<b>318</b>	same	12/1/15
23	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	Certification About a Financial Management Course	<b>423</b>	same	12/1/15
27	Reaffirmation Agreement Cover Sheet	Cover Sheet for Reaffirmation Agreement	<b>427</b>	same	12/1/15

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Standing Committee

Item 3A will be an oral report.

Draft minutes of the Standing Committee meeting will be distributed separately.

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# TAB 3B

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

2 \* \* \* \* \*

3 (f) ADDITIONAL TIME AFTER SERVICE BY MAIL OR UNDER RULE  
4 5(b)(2)(D), ~~(E)~~, OR (F) F.R. CIV. P. When there is a right or requirement to act or  
5 undertake some proceedings within a prescribed period after being served<sup>1</sup> and that  
6 service is by mail or under Rule 5(b)(2)(D) (leaving with the clerk), ~~(E)~~, or (F) (other  
7 means consented to) F.R. Civ. P., three days are added after the prescribed period would  
8 otherwise expire under Rule 9006(a).

9 \* \* \* \* \*

**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 3 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 3 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 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 in 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.

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<sup>1</sup> This wording anticipates adoption of the proposed amendment published in August 2013.



## Rule 6. Computing and Extending Time; Time for Motion Papers

\* \* \*

- (d) ADDITIONAL TIME AFTER CERTAIN KINDS OF SERVICE. When a party may or must act within a specified time after being served<sup>1</sup> and service is made under Rule 5(b)(2)(C), (D), ~~(E)~~, or (F),<sup>2</sup> 3 days are added after the period would otherwise expire 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.

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 in 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. [If we eliminate consent from Rule 5(b)(2)(E), we can add that here.]

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

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<sup>1</sup> This anticipates adoption of the proposed amendment published in August, 2013.

<sup>2</sup> The cross-references to Rule 5(b)(2) may seem awkward. We should think about adding parenthetical descriptions that could relieve much of the flipping back through the rules. It seems likely that e-service will dominate other modes, but absent some descriptions many anxious readers will track down the cross-reference just to make sure e-service is not among the means listed. Of course there is an offsetting risk that parenthetical descriptions may mislead, and adding them would impede the style project's hope to reduce total word count.

The descriptions might look like this: "and service is made under Rule 5(b)(2)(C)(mailing), (D)(leaving with the clerk), or (F)(other means consented to), 3 days are added \* \* \*."

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 complicates 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.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

RE: SUGGESTED AMENDMENT TO THE BANKRUPTCY RULES TO PROVIDE CREDITORS WITH NOTICE OF THE ENTRY OF A CONFIRMATION ORDER IN CHAPTER 13 CASES

DATE: AUGUST 19, 2013

At its fall 2012 meeting, the Advisory Committee considered a suggestion (12-BK-B) to require notice of the entry of an order confirming a chapter 13 plan. Rule 2002(f)(7) requires notice to creditors of the entry of confirmation orders in cases under chapters 9, 11, and 12—but not chapter 13. The suggestion, which was submitted on behalf of the Bankruptcy Noticing Working Group, proposes that Rule 2002(f)(7) should be made applicable to chapter 13 cases as well. The Advisory Committee deferred taking action on the suggestion so that the Subcommittee on Consumer Issues could gather and assess further information about noticing practices and the potential costs of additional notice. The Subcommittee undertook to do so, and discussed the suggestion during its June 28, 2013, conference call.

The Subcommittee has concluded that there is no pressing reason to amend the rule. The omission of chapter 13 cases from Rule 2002(f)(7) has not created any apparent confusion in the case law. Because notice of the confirmation hearing is already required, the Subcommittee did not find the benefits of requiring notice of the entry of a confirmation order to be substantial enough to justify an amendment to the Bankruptcy Rules. The Subcommittee also learned that courts routinely invoke their authority to order notice of confirmation in chapter 13 cases, so that an amendment to Rule 2002(f)(7) would not fill any gap, as a practical matter, in the Bankruptcy

Rules. Rather than introduce an additional notice requirement in the Bankruptcy Rules, the Subcommittee came to the view that the current discretionary approach to notice is sufficient. **Accordingly, the Subcommittee recommends that the Advisory Committee take no further action on the suggestion.**

### **Discussion**

The Subcommittee did not find evidence that the current version of Rule 2002(f)(7) has generated confusion or prompted significant litigation. That may be because notice of the confirmation hearing—which the Bankruptcy Rules do require—is usually sufficient to apprise creditors of the pending entry of a confirmation order. *See, e.g., In re Crumrine*, 2000 WL 854987, at \*2 (Bankr. N.D. Cal. 2000) (rejecting creditors’ argument that the failure to provide notice of the entry of a confirmation order violated due process, because the creditors or their attorney had received sufficient notice of the confirmation hearing and knew, or should have known, of the entry of the confirmation order before the time to challenge it expired). Creditors who are represented by counsel may also receive electronic notice when a confirmation order is entered on the docket. In addition, Rule 9022 grants bankruptcy courts the discretion to order notice. That rule requires the clerk to serve notice “immediately on the entry of a judgment or order” to “the contesting parties and on other entities as the court directs.” Thus, notwithstanding Rule 2002(f)(7), under Rule 9022 a court may choose to require notice to creditors of the entry of an order confirming a chapter 13 plan.

The Subcommittee conducted an informal survey of bankruptcy clerks to determine what proportion of courts require notice when a confirmation order is entered in a chapter 13 case. Responses were received from 77 courts. Of those responding to the survey, a substantial



majority of clerks (approximately 80%) indicated that their courts routinely provide notice of the entry of a confirmation order in chapter 13 cases. Typically, notice is accomplished by the clerk through the Bankruptcy Noticing Center and is not delegated to the debtor's attorney or the chapter 13 trustee. Although the responses did not establish whether notice was routinely given to all creditors (as opposed to a narrower subset of creditors), the Subcommittee was satisfied that courts are well aware of their authority to provide notice to creditors under Rule 9022.

This widespread practice persuaded the Subcommittee that an amendment to the Bankruptcy Rules was unnecessary. The Subcommittee therefore recommends that the Advisory Committee take no further action on the suggestion. Although it could be argued that an amended rule would merely ratify current practices, the Subcommittee was reluctant to *require* more expansive notice in Rule 2002(f)(7). Indeed, the Subcommittee is considering a separate suggestion to limit certain notice requirements in chapter 13 cases that may be costly and provide little benefit.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES  
FROM: SUBCOMMITTEE ON CONSUMER ISSUES  
RE: CONTINUED CONSIDERATION OF AMENDMENTS TO RULE 3007(a)  
DATE: AUGUST 28, 2013

The Advisory Committee previously proposed the amendment of Rule 3007(a), which addresses the time and manner of serving objections to claims, in response to two suggestions submitted on behalf of the Bankruptcy Judges Advisory Group (“BJAG”).<sup>1</sup> The first suggestion (09-BK-H), from Judge Margaret D. McGarity, proposed that Rule 3007(a) be amended to permit the use of a negative notice procedure for objections to claims. The second suggestion (09-BK-N), from Judge Michael E. Romero, sought clarification of the proper method of serving objections to claims.

As published in August 2011, proposed Rule 3007(a) would have no longer required notice of a claim objection to be provided at least 30 days before “the hearing” on the objection. Instead, it required notice of the objection to be provided at least 30 days before “any scheduled hearing on the objection or any deadline for the claimant to request a hearing.” That change was intended to allow an objection to be decided without a hearing in a district that has a negative notice procedure for claim objections. It also specified how and on whom an objecting party must serve the objection and notice of objection. The proposed amendment clarified that, with a couple of exceptions, service did not have to comply with Rule 7004.

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<sup>1</sup> As will be discussed, the Committee proposed a different amendment to Rule 3007(a) for publication this year in connection with the chapter 13 plan form. The 2013 publication of the proposed Rule 3007(a) amendment does not include the language of the previously proposed amendment that is the subject of this memo.

Two comments were submitted in response to the publication of the proposed amendment. Judge Eric Frank (Bankr. E.D. Pa.) questioned whether a negative notice procedure is generally appropriate for an objection to a claim since, under Rule 3001(f), a properly executed and filed proof of claim is entitled to be treated as prima facie evidence of the validity and amount of the claim. Given this evidentiary effect of a proof of claim, Judge Frank suggested that in many situations a claim should not be disallowed by default and without a hearing. The other comment was submitted by Mr. Raymond P. Bell, Jr. (11-BK-015), who agreed with Judge Frank.

At the spring 2012 Advisory Committee meeting, the Committee accepted the Subcommittee's recommendation that further action on the amendment be postponed until a unified approach to the service of claim objections and claim modifications in chapter 13 plans could be proposed. Before bringing an amendment of Rule 3007(a) back to the Committee, the Subcommittee was requested to give further consideration to the appropriateness of a negative notice procedure for claim objections.

During its conference call on June 28, the Subcommittee renewed its consideration of the previously proposed amendment to Rule 3007(a). It engaged in further discussions by email.

**The Subcommittee now recommends that the amendment to Rule 3007(a) that was published in 2011 be approved as published, with a change made only to the Committee Note. It also recommends that amendments to Rules 3007(a) and 3012(b) published this year be further revised.**

To refresh the Committee's memory about the issues, this memorandum discusses the suggestions that prompted the proposed amendments, the text of the proposed rule as published,

Judge Frank's comment, and the reason for the Committee's action in 2012. It then discusses reasoning leading to the Subcommittee's recommendations.

### I. The Suggestions and the Committee's Proposed Amendments

Rule 3007(a) currently provides that an objection to the allowance of a claim shall be made in writing and filed, and that a copy of the objection "with notice of the hearing thereon" shall be provided the claimant, the debtor or debtor in possession, and the trustee "at least 30 days prior to the hearing." Judge McGarity questioned the need for a hearing on all objections to claims. Because the requirement can result in congested court calendars, she said that some courts ignore the requirement altogether, and others schedule the hearing but cancel it if the claimant does not respond by a specified date before the hearing. BJAG asked the Advisory Committee to consider an amendment to Rule 3007(a) that would place the burden on an interested party to request a hearing after receiving notice of the objection.

Judge Romero's suggestion on behalf of BJAG sought rule guidance about what constitutes proper service of an objection to a proof of claim, so that "one uniform method of service can be used for all objection-to-claims purposes." He explained that some courts have required service pursuant to Rule 7004, because the filing of an objection creates a contested matter and Rule 9014(b) provides that the "motion [initiating a contested matter] shall be served in the manner provided for service of a summons and complaint by Rule 7004." These courts require Rule 7004 service in addition to the provision of notice required by Rule 3007(a).

Other courts have concluded that Rule 9014(b) is not applicable because Rule 9014(a) says that it applies to contested matters "not otherwise governed by these rules." Reasoning that the same limitation applies to subdivision (b) of the rule, these courts have concluded that Rule

3007(a) does “otherwise govern” the method of service of a claim objection by specifying to whom notice must be mailed or otherwise delivered at least 30 days prior to the hearing.

In response to these suggestions, the Advisory Committee voted unanimously at the spring 2011 meeting to approve for publication—and the Standing Committee published—the following amendment of Rule 3007(a) and accompanying Committee Note:

**Rule 3007. Objections to Claim**

(a) ~~OBJECTIONS TO CLAIM~~TIME AND MANNER OF SERVICE.

An objection to the allowance of a claim and a notice of objection that conforms substantially to the appropriate Official Form shall be in writing and filed—and served at least 30 days before any scheduled hearing on the objection or any deadline for the claimant to request a hearing. The objection and notice shall be served as follows:

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

(A) if the objection is to a claim of the United States, or any of its officers or agencies, in the manner provided for service of a summons and complaint by Rule 7004(b)(4) or (5); or

(B) if the objection is to a claim of an insured depository institution, according to Rule 7004(h); and

(2) on the debtor or debtor in possession and the trustee by first-class mail or other permitted means.



~~A copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession, and the trustee at least 30 days prior to the hearing.~~

### **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 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 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.

### **II. Judge Frank's Comment**

Judge Frank based his comment on the tension that he perceived between the proposed amendment and Rule 3001(f). That provision states that "A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." In Judge Frank's view, this rule was intended to facilitate the filing and allowance of claims by creditors—including those who live far away from the bankruptcy court or are not represented by counsel—by shifting the burden of production of evidence to the objector. He said that, so long as that provision applies, he did not understand as a matter of logic how a claim

can be disallowed without a hearing, particularly if the objection is not accompanied by any evidence that the claim is invalid.

Judge Frank then discussed the most common bases, in his experience, for objecting to unsecured claims. Of the four he identified, he suggested that only two might possibly be resolved without a hearing: lack of sufficient documentation either (1) to establish that the claimant is the assignee of the original creditor or (2) to permit the objector to assess the claim's validity (when the objector in good faith disputes either the validity or amount of the claim). He said that a court could resolve objections of this type "on the papers" if the claimant, having been advised of the need to respond to the objection or request a hearing, failed to do so. But he argued that a "comprehensive negative notice system for claims objections is overinclusive."

Judge Frank said that the problem he saw with the proposed amendment arose more from the Committee Note than from the text of the rule itself. While the rule's reference to "any deadline to request a hearing" might suggest that a claim can be disallowed just because of the failure to make such a request, it did not expressly say so. The Committee Note, however, stated that the amendment authorized local rules to *require* a claimant to request a hearing or file a response. He therefore suggested that, "at a minimum," the Committee Note be revised to "state unequivocally that although local rules may impose the obligation on a claimant to respond to a proof of claim, there may [be] matters in which a proof of claim is valid and allowable notwithstanding the failure to file a response to claims objection or request a hearing . . . ." He said that the Committee Note should indicate that, with regard to those matters, the court has a duty to determine whether Rule 3001(f) requires allowance of the claim, even if the claimant does not respond or request a hearing.

Judge Frank recognized that some districts do allow a negative notice procedure for objections to claims, but he did not believe that the lack of uniformity creates a problem for which a national rules solution is required. He noted that the “status quo is one in which different districts are handling these matters in different ways—hardly an unusual situation in the bankruptcy system.” He therefore questioned whether the Rules Committee really needs to address this issue.

Finally, Judge Frank observed that “the claims allowance process involves a very delicate balancing of interests.” Because of the usual situation of limited resources, both debtors and creditors might be tempted to take advantage of the possibility that the other side will not respond to questionable claims or objections because the cost of doing so is likely to exceed any expected benefit. He therefore urged the Committee “to tread carefully when modifying the existing rules governing claims allowance.”

### III. The Committee’s Decision to Postpone Action on the Amendments

At the spring 2012 meeting, the Subcommittee recommended that the proposed amendments to Rule 3007(a) be withdrawn so that they could be considered along with the package of rule amendments accompanying the development of a national chapter 13 plan form. The Chapter 13 Plan Form Working Group was then considering possible rule amendments that would permit the amount of certain claims to be determined in a chapter 13 plan, as well as by motion or claim objection. The Subcommittee concluded that the method of service on the claimant should be the same regardless of the method used for seeking the determination of the claim amount. Rather than proceed with the published amendment of Rule 3007(a), the Advisory Committee accepted the recommendation that further action on the amendment be postponed until a unified approach to the service of claim objections and claim modifications in

plans could be proposed. Before bringing an amendment of Rule 3007(a) back to the Committee, the Subcommittee indicated that it would give further consideration to the appropriateness of a negative notice procedure for claim objections.

#### IV. The 2013 Proposed Amendments to Rules 3007 and 3012

Included in the package of rule amendments that were published this summer are proposed amendments to Rules 3007(a) and 3012(b). Existing Rule 3007(a) would be amended to provide an exception to the method of service of claim objections currently prescribed by the rule. The second sentence would be amended as follows: “A 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 copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession and the trustee at least 30 days prior to the hearing.” Rule 3012 in turn would be amended to provide procedures in addition to claim objections for determining the amount of certain types of claims. The amount of a secured claim could be determined in response to a motion or by its inclusion in a chapter 12 or 13 plan. The amount of a priority claim could be determined in response to a motion. As published, new subdivision (b) would provide as follows:

(b) REQUEST FOR DETERMINATION; HOW MADE. Except as provided in subdivision (c), a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 12 or 13 case. A request to determine the amount of a claim entitled to priority may be made by motion or in a claim objection. The request shall be served on the holder of the claim and any other entity the court designates in the manner provided for service of a summons and complaint by Rule 7004.

The proposed amendments to Rules 3007(a) and 3012(b) provide for two different methods of service: (1) the Rule 3007(a) method and (2) the Rule 7004 method. If a chapter 12 or 13 debtor wants the court to determine that a secured claim differs from the amount stated in the proof of claim, proposed Rule 3012(b) provides three ways to obtain this determination: by motion, claim objection, and plan confirmation. The rule refers to all three of these methods as “a request to determine the amount of a secured claim.” Rule 3012(b) requires all “requests,” regardless of how sought, to be served according to Rule 7004. If a debtor wants a determination of the amount of a claim entitled to priority, there are two options: motion and claim objection, both of which are “requests” and therefore must be served according to Rule 7004.

Rule 3007(a) as published in 2013, on the other hand, would retain the general method for serving notice of claim objections that is provided in the existing rule: mailing or delivery by other means to the claimant, the debtor or debtor in possession, and the trustee. Given the contrast with proposed Rule 3012(b), Rule 3007(a) seems to contemplate a less formal method of service than is required by Rule 7004. The 2011 proposed amendment to Rule 3007(a) would make that difference clear.

When proposed Rules 3007 and 3012 are read together, they create two categories of claim objections with different service methods:

1. Objection to the amount of a secured claim and objection to the amount of a priority claim: Because there is no exception in Rule 3007(a) for these claim objections, they must be served as provided in that rule. And because according to proposed Rule 3012(b) they are pursued by a “request,” service must also be made according to Rule 7004.

2. All other claim objections (other than those involving claims by the United States and by insured depository institutions): Service must be made only according to Rule 3007(a).

#### V. Recommendation Regarding Method of Service

The Subcommittee was asked to try to create a unified approach to the service of claim objections and claim modifications in plans. After considering several options, the Subcommittee concluded that the best approach is to make the method of service of most claim objections uniform, while allowing a different method of service for plan modifications of secured claims. In order to implement this approach, the Subcommittee recommends that proposed Rule 3012(b) be further revised to require service according to Rule 7004 only for determinations of the amount of a secured claim in connection with the confirmation of a chapter 12 or chapter 13 plan (rather than for all “requests”). And it recommends that the service provisions of the 2011 proposed amendment of Rule 3007(a) be approved, so that—except for the federal government and insured depository institutions—all claim objections would be served by mailing the objection and notice of objection to the person designated on the proof of claim. The proposed exception to Rule 3007(a) that was published this 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”—should not be included because the exception does not concern the subject of Rule 3007, claim objections.

The Committee’s proposal of the 2011 amendments to Rule 3007(a) was based on the belief that claim objections should generally be served on the person that the claimant designated on the proof of claim for receipt of notices, rather than according to Rule 7004. Members of the Subcommittee continue to believe that this method of service is preferable for claim objections.

The principle guiding the proposed amendment of Rule 3012(b) was that modifications to claims made in plans need more formal service in order to increase the likelihood that affected claimants will be made aware of the plan provision. Although it can be argued that the method of service for requests to determine the amount of secured claims should be the same regardless of how the issue is raised, the Subcommittee concluded that it is more important to have uniformity in the method of service of claim objections.

The text of the recommended amendment of Rule 3007(a), omitting the currently published exception, is set out below on pages 14-15, following the discussion of negative notice.

The recommended amendment of Rule 3012(b) would read as follows (with the underscore and strikeout indicating further changes to the version just published in August 2013):

**Rule 3012. Determination of the Amount of Secured and Priority Claims**

\* \* \* \* \*

(b) REQUEST FOR DETERMINATION; HOW MADE. Except as provided in subdivision (c), a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 12 or 13 case. When the request is made in a chapter 12 or chapter 13 plan, the plan shall be served on the holder of the claim and any other entity the court designates in the manner provided for service of a summons and complaint by Rule 7004. A request to determine the amount of a claim entitled to priority may be made by motion or in a claim objection. ~~The request shall be served on the holder of the~~

10 ~~claim and any other entity the court designates in the manner provided for service~~  
11 ~~of a summons and complaint by Rule 7004.~~

With these revisions, Rule 3007(a) would govern the service of all claim objections, Rule 3012(b) would govern the service of plan modifications of secured claims, and Rule 9014(b) would govern service when the determination of the amount of secured or priority claims is sought by motion. The recommended amendments to Rules 3007(a) and 3012(b) could likely be approved at the spring 2014 meeting without requiring republication.

#### VI. Recommendation Concerning Negative Notice

The 2011 proposed amendments to Rule 3007(a) would have allowed courts to use a negative notice procedure for claim objections. Judge Frank raised some substantial questions about this proposed amendment, although neither the proposed rule nor the Committee Note stated that a court could disallow a claim in every instance that the claimant failed to respond to an objection. The sentence in the Committee Note that he found most disturbing said, “[The rule] permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing.” It did not say that the claimant has to act in order to have its claim allowed, just to obtain a hearing. Section 102(1) of the Code provides that the phrase “after notice and a hearing” permits the court to act without an actual hearing if appropriate notice is given and a hearing is not timely requested by a party in interest.

The Subcommittee concluded that in response to Judge Frank’s concern, the Committee Note should be expanded to make clear that a claim could still be allowed despite the claimant’s failure to respond to a claim objection. The Subcommittee proposes the addition of a sentence to the end of the Committee Note similar to the language proposed by Judge Frank. It would read: “However, while a local rule may require the claimant to respond to the objection to a proof of



claim, the claim may be determined to be allowed even if the claimant does not file a response to a claim objection or request a hearing.”

In response to Judge Frank’s argument that the lack of uniformity regarding claim-allowance practice does not create a problem for which a national rule solution is required, the Subcommittee noted that the amendment to Rule 3007(a) was proposed to authorize the negative notice practice that many courts already employ, not to require uniformity. As published in 2011, the amendments to Rule 3007(a) would allow flexibility in how courts handle objections to claims, rather than mandating a hearing in all cases.

With respect to Judge Frank’s concern about the disturbance of the balance between debtor and claimant interests that could be caused by a negative notice procedure, the Subcommittee noted that this procedure is being widely used and is already part of the balance in many districts. Moreover, even when hearings are held in response to all objections, the hearing is not necessarily an evidentiary one. The initial hearing may be one to determine if there is a need for an evidentiary hearing, and the court might inquire of the creditor why the objection should not be sustained. The absence of an adequate response could lead to disallowance of the claim, notwithstanding the prima facie validity bestowed by Rule 3001(f). For example, if the proof of claim was based on a statute that had been repealed, an objection might raise only the legal sufficiency of the claim. If there are no facts in dispute, no prima facie showing is ever called for. So whether the court requires the claimant to provide a written response to a claim objection, make a request for a hearing, or give an oral response at a non-evidentiary hearing, Rule 3001(f) does not render a claimant immune from having to take some action to show that there are facts in dispute requiring an evidentiary hearing on the objection.

## VII. Summary

The Subcommittee recommends that Rule 3007(a) be approved as published in 2011 and that a sentence be added to the end of the Committee Note. As amended, the rule would specify that service of a claim objection is to be made on most claimants by mailing notice to the person listed on the proof of claim. It would also authorize courts in appropriate cases to take action on claim objections without holding a hearing.

The proposed amendment of Rule 3007(a) follows. Double underlining in the Committee Note indicates the proposed changes to the 2011 note.

### **Rule 3007. Objections to Claim**

#### (a) ~~OBJECTIONS TO CLAIMS~~TIME AND MANNER OF SERVICE.

An objection to the allowance of a claim and a notice of objection that conforms substantially to the appropriate Official Form shall be ~~in writing and filed~~and served at least 30 days before any scheduled hearing on the objection or any deadline for the claimant to request a hearing. The objection and notice shall be served as follows:

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

(A) if the objection is to a claim of the United States, or any of its officers or agencies, in the manner provided for service of a summons and complaint by Rule 7004(b)(4) or (5); or

(B) if the objection is to a claim of an insured depository institution, according to Rule 7004(h); and

(2) on the debtor or debtor in possession and the trustee by first-class mail or other permitted means.

~~A copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession, and the trustee at least 30 days prior to the hearing.~~

### 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 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 claim may be allowed even if the claimant does not file a response to a claim objection or request a hearing.

The Subcommittee also recommends that proposed Rule 3012(b), which was published this summer, be revised as set out on pages 11-12 and considered for approval at the spring 2014 meeting, after the Committee has an opportunity to consider any comments submitted in response to publication.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES  
FROM: SUBCOMMITTEE ON CONSUMER ISSUES  
RE: CONFORMING AMENDMENTS TO RULE 1007(a)  
DATE: AUGUST 25, 2013

Subdivisions (a)(1) and (a)(2) of Rule 1007 require the filing at the outset of a case of the names and addresses of all entities included on “Schedules D, E, F, G, and H.” At the spring 2013 meeting of the Advisory Committee, Judge Harris pointed out that these provisions will need to be amended to reflect the changed designations of the schedules that have been proposed by the Forms Modernization Project. After consideration of the matter during its June 28 conference call, **the Subcommittee recommends that the Advisory Committee propose conforming amendments to these provisions as set out below.**

The revised schedules for individual cases have recently been published for comment. Under the new numbering and lettering protocol of the proposed forms, the schedules referred to in Rule 1007(a)(1) and (a)(2) will become Official Forms 106 D, E/F, G, and H. Although the form number will be different, the lettering protocol for the schedules in non-individual cases will be the same as individual debtor cases: Official Forms 206 D, E/F, G and H. If the schedules are promulgated with those designations, Rule 1007(a)(1) and (a)(2) will need to be amended as follows:

**Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits**

- 1 (a) CORPORATE OWNERSHIP STATEMENT, LIST OF CREDITORS  
2 AND EQUITY SECURITY HOLDERS, AND OTHER LISTS.





The only other rule that refers to specific schedules by letter—Rule 4008(b)—does not require amendment because its reference is to Schedules I and J, and the designation of those official forms will remain the same.

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# TABS 4D-4E

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Suggestion 12-BK-I, Judge John E. Waites, Rule 1006(b)  
Suggestion 12-BK-M, Judge Scott W. Dales, Rule 2002(h)

Items 4D and 4E will be oral reports.

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# TABS 5-6

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Chapter 13 Plan Form Working Group  
Mortgage Claim Form Working Group

Items 5 and 6 will be oral reports.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES  
FROM: SUBCOMMITTEES ON CONSUMER ISSUES AND FORMS  
SUBJECT: SUGGESTION REGARDING APPLICABILITY OF RULE 3002.1  
DATE: AUGUST 23, 2013

Bankruptcy Judge Carol Doyle (N.D. Ill.) submitted Suggestion 13-BK-E, which requests consideration of an amendment to Rule 3002.1 to clarify that the rule applies to all claims that are secured by a chapter 13 debtor's principal residence when the plan proposes to maintain mortgage payments postpetition, whether or not there is a prepetition default being cured. She suggests that the reference in Rule 3002.1(a)(2) to § 1322(b)(5) of the Code—which arguably limits the applicability of the rule—be deleted.<sup>1</sup>

The Subcommittees considered this Suggestion during their joint conference call on July 23 and in follow-up email discussions. **They recommend that Rule 3002.1(a) be amended to clarify that the rule applies to any chapter 13 plan that provides for the maintenance of home mortgage payments.**

In response to conflicting court decisions, the Committees also discussed whether the rule should be amended to provide for the cessation of reporting obligations based on the granting of relief from the stay with respect to the debtor's principal residence. Because members could not reach a consensus about the point at which the obligation should terminate, the Subcommittees present two alternatives for the Committee's consideration.

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<sup>1</sup> Rule 3002.1(a) provides, "This rule applies in a chapter 13 case to claims that are (1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan."

## I. Judge Doyle's Suggestion

Judge Doyle's suggestion regarding Rule 3002.1, which became effective in 2011, arises out of a case she decided in May of this year. *In re Tollios*, 491 B.R. 886 (Bankr. N.D. Ill. 2013). Chapter 13 debtors sought sanctions against their mortgagee because of its failure to comply with Rule 3002.1(b). Although the mortgagee, JP Morgan Chase, sent notice of an escrow increase to the debtors, who were making their postpetition mortgage payments directly to Chase, it did not file notice of the payment change with the court or serve it on the debtors' attorney or the chapter 13 trustee. Debtors admitted that they were unable to make the increased payments, but they asked the court to sanction Chase for the violation by declaring that they were current on their loan payments and that the escrow amount remained as it was at the time of the petition. They also sought attorney's fees and punitive damages.

In response to Chase's argument that Rule 3002.1 was inapplicable because the debtors were not curing a prepetition default under their plan pursuant to § 1322(b)(5), Judge Doyle held that the rule applies "when the plan provides for maintaining current mortgage payments on the debtor's principal residence regardless of whether the debtor was behind on payments to the lender on the petition date." 491 B.R. at 891. Despite concluding that Chase was obligated to, but did not, comply with Rule 3002.1(b), Judge Doyle denied debtors' request for sanctions—other than a possible award of attorney's fees—because the rule violation did not cause debtors any harm.

Judge Doyle submitted her Suggestion to the Committee because other bankruptcy courts have interpreted Rule 3002.1(a) as Chase urged, so she asks the Committee to eliminate any ambiguity about when the rule applies.<sup>2</sup>

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<sup>2</sup> Judge Doyle also noted in *Tollios* that some courts have held that Rule 3002.1 does not apply when the debtor makes maintenance payments directly to the mortgagee, because those payments are made



## II. Interpretation of the Current Language

Several authorities have interpreted Rule 3002.1(a) as applying only in chapter 13 cases in which an arrearage is being cured. The court in *In re Walleit*, 2012 WL 4062657 at \* 2 (Bankr. D. Vt. 2012), held that “the new rule articulates clearly that the requirements it sets out apply to mortgages that are in arrears on the date the bankruptcy case was filed and treated in the plan in accordance with § 1322(b)(5).” Similarly, the court *In re Weigel*, 485 B.R. 327, 328 (Bankr. E.D. Va. 2012), held that “because there were no pre-petition arrearages to be cured, § 1322(b)(5) is not applicable. . . . Without an arrearage, Rule 3002.1 does not apply.”

The Collier treatise also states that “Federal Rule of Bankruptcy Procedure 3002.1 applies only in chapter 13 cases and only to claims secured by a debtor’s principal residence that are being cured under the debtor’s plan pursuant to 11 U.S.C. § 1322(b)(5).” Alan N. Resnick & Henry J. Sommer, *COLLIER ON BANKRUPTCY* ¶ 3002.1.01 (16<sup>th</sup> ed. 2012). Unlike the cases cited above, however, the treatise states that the arrearage may arise either prepetition or postpetition. This interpretation is consistent with the treatise’s explanation of § 1322(b)(5). *See id.* at ¶ 1322.09[2] (“[S]ection 1322(b)(5) . . . may be utilized to cure postpetition defaults as well as prepetition defaults.”).

Judge Doyle reached a different conclusion in her opinion in *In re Tollios*. She read § 1322(b)(5) as giving chapter 13 debtors two permissible options: (1) cure prepetition defaults and (2) maintain current payments. As she interprets the provision, both options do not have to be exercised in a plan. Thus, she reasoned, a plan can treat a long-term debt under § 1322(b)(5) by just maintaining current payments if there is no prepetition arrearage to cure. According to the opinion, this reading of § 1322(b)(5) prevents a debtor with a long-term, secured debt from

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“outside the plan.” She disagreed with that interpretation and pointed out that the Committee Note states that the rule applies “regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.” 491 B.R. at 889 n.1.

having to comply with § 1325(a)(5) and make all of the required payments during the life of the plan.

Another opinion supports this interpretation. *In re Cloud*, 2013 WL 441543 at \* 2 (Bankr. S.D. Ga. 2013), held that “§ 1322(b)(5) encompasses all long-term debt, not just debt with a prepetition default cured through the plan.” The court relied on the provision’s applicability to “*any* unsecured or secured claim on which the last payment is due after the date on which the final payment under the plan is due” (emphasis added). This interpretation led the court to hold that Rule 3002.1 applied to the mortgagee even though its claim did not include an arrearage.

### III. Should the Applicability of Rule 3002.1 Be Clarified?

Chapter 13 plans are permitted to provide that home mortgage payments will be maintained during the life of the plan even if the debtor is not in default at the time the case is commenced. Whether this treatment is authorized by § 1322(b)(2) (“[T]he plan may . . . leave unaffected the rights of holders of any class of claims.”)<sup>3</sup> or § 1322(b)(5), as Judge Doyle held, the Subcommittees concluded that Rule 3002.1(a) should be amended to clarify that it requires compliance with the rule whenever a plan provides for the maintenance of postpetition mortgage payments. The rationale for the rule supports the clarification. If a debtor is trying to remain current on a home mortgage, he or she needs to know if the amount required to be paid has changed, whether or not an arrearage is being cured.

**The Subcommittees also recommend that, in addition to acting favorably on Judge Doyle’s suggestion, the Committee take this opportunity to clear up any doubt that Rule 3002.1 applies regardless of whether the trustee or the debtor makes the maintenance**

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<sup>3</sup> See, e.g., *In re Rogers*, 2013 WL 3422702 (Bankr. E.D.N.C. 2013) (holding that a chapter 13 plan provision for maintenance of home mortgage payments was authorized by § 1322(b)(2), not § 1322(b)(5), when there was no prepetition arrearage).

**payments to the holder of a home mortgage claim.** The practice in bankruptcy courts varies in this regard, and the Committee intended the rule to apply in either situation, as indicated by the language in the Committee Note quoted in footnote 2 of this memo. At least one court, however, has held the rule inapplicable if the debtor makes the payments directly to the mortgagee. *See In re Merino*, 2012 WL 2891112 (Bankr. M.D. Fla. 2012).

The Subcommittees recommend that the following amendments be proposed to Rule 3002.1(a):

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

1 (a) IN GENERAL. This rule applies in a chapter 13 case to claims (1)  
2 that are ~~(1)~~ secured by a security interest in the debtor's principal residence, and  
3 (2) for which the plan provides that either the trustee or the debtor will make  
4 contractual installment payments provided for under § 1322(b)(5) of the Code in  
5 ~~the debtor's plan.~~

6 \* \* \* \* \*

**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 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.

#### IV. The Effect of Terminating the Stay on the Creditor's Reporting Obligation

After considering the circumstances that trigger the applicability of Rule 3002.1, the Subcommittees discussed whether subdivision (a) should be amended to resolve an issue that has divided the courts: Do the creditor's obligations under Rule 3002.1 cease to apply if the automatic stay is lifted with respect to the debtor's principal residence, and, if so, at what point is the creditor relieved of these obligations? Currently the rule does not have any provision for the termination of the reporting requirements while the chapter 13 case is pending, yet the rule's purposes seem largely inapplicable if mortgage payments are no longer being made. *See, e.g., In re Kraska*, 2012 WL 1267993 (Bankr. N.D. Ohio 2012) (noting that there "are simply no exceptions contained in the rule" in declining to waive requirements under Rule 3002.1 after surrender of residence); *In re Full*, 2012 Bankr. LEXIS 4704 (Bankr. D.S.C. 2012) (referring to a prior notice to attorneys not to include in a motion for relief from stay or a proposed order a provision excusing further compliance with Rule 3002.1). This issue was discussed at the mini-conference held in January, and no consensus emerged on when the creditor's obligation to give notice of payment changes and postpetition charges should cease.

The Subcommittees agreed that Rule 3002.1 should be inapplicable when there is no longer a purpose to be served by the notification requirements. As at the mini-conference, however, there was no agreement among the Subcommittees' members as to when that point arrives. The views coalesced around two positions: (1) effective date of the order terminating the stay and (2) transfer of title from the debtor. These positions are set forth below, along with drafts of proposed amendments to implement each of them.

##### Effective-date position

Rule 3002.1(a) might be amended as follows to implement this approach:

**Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor’s Principal Residence**

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

8   \* \* \* \* \*

This approach is based on the view that once the stay is terminated or annulled and that order takes effect, there will generally be no reason to notify the debtor about changes in the amount of the mortgage payments or additional charges because payments will no longer be made. Cessation of the notification requirements upon the termination of the stay is therefore made the default position, but that rule is subject to a contrary order by the court should there be a reason in a particular case for continued notification.

This approach is consistent with the proposed chapter 13 plan form. A provision in Part 3.1 (Maintenance of payments and cure of any default) states: “[I]f relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, all payments under this plan as to that collateral will cease and all claims as to that collateral will no longer be treated by the plan.” Because Rule 3002.1(a) currently requires a home mortgage claim to be “provided for . . . in the debtor’s plan” in order for the rule to apply, the proposed plan language is intended to render Rule 3002.1 no longer applicable after relief from the stay is granted. *See also In re*

Thongta, 480 B.R. 317, 320 (Bankr. E.D. Wis. 2012) (“[A]fter the Court’s Order terminating the stay, the Creditor’s claim was no longer ‘provided for under § 1322(b)(5) of the Code in the Debtor’s plan.’”). *But see In re Holman*, 2013 WL 1100705 at \*3 (Bankr. E.D. Ky. 2013) (“Relief from the stay does not change the essential fact that a plan was confirmed as a cure and maintenance plan pursuant to § 1322(b)(5).”).

An additional argument in support of the effective date position is that it renders Rule 3002.1 inapplicable as of a date that will be a matter of record in the bankruptcy court—when the stay order takes effect. Using the date of transfer of title from the debtor as the triggering event, by contrast, requires determination of state law and knowledge of events occurring outside of the bankruptcy proceedings.

Transfer-of-title position

This approach could be expressed in Rule 3002.1(a) as follows:

**Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor’s Principal Residence**

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

Supporters of this position challenge the view that termination of the stay generally means the end of mortgage payments. Some members of the Subcommittees pointed out that not infrequently the mortgagee does not foreclose after the stay is lifted, and later the mortgage claim is brought back into the plan with the stay reinstated. That can occur because the creditor and the debtor agree on a mortgage modification or the debtor cures the default. In those situations, the debtor needs to continue to be informed about changes in payment amounts and additional charges in order to become current on the mortgage. Only when the debtor no longer has title to the property because a foreclosure sale has occurred and any redemption period has expired is there a certainty that the debtor will make no further mortgage payments.

The court in *In re Holman*, 2013 WL 1100705 at \*3 (Bankr. E.D. Ky. 2013), explained the continuing need for the mortgagee to make the Rule 3002.1 disclosures after the stay is lifted:

Stay relief does not prevent a debtor from attempting to keep his home. Following stay relief, a debtor may seek to defend a foreclosure action, enter into a loan modification, propose further plan amendments, or sell the residence by private sale. Required Rule 3002.1 disclosures, such as changes in rates, late fees and penalties, will assist a debtor in any of these post-stay relief options and thus serve the Code's policy of a fresh start.

Another reason some courts have given for requiring continued compliance with Rule 3002.1 after the stay has been terminated is the possibility that the mortgagee will file a claim for a deficiency after foreclosure. The *Holman* court explained that "Requiring continued disclosure may further benefit the debtor and chapter 13 trustee in their review of a creditor's post-foreclosure deficiency claim." *Id.* Similarly, the court in *In re Kraska*, 2012 WL 1267993 (Bankr. N.D. Ohio 2012), pointed out that payment changes could occur before foreclosure that would affect the amount of the deficiency claim. "Requiring a creditor to provide notice of these

figures will allow parties to examine the basis of the amounts due and challenge the figures when necessary.” *Id.* at \*2.

The Subcommittees make no recommendation on this issue. Instead they present it for discussion by the full Committee and guidance on the approach to take.



# TAB 7B

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Suggestion 11-BK-N, David S. Yen, 28 U.S.C. § 1930(f)(2), (f)(3)

Item 7B will be an oral report.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

RE: FORMS MODERNIZATION PROJECT

DATE: AUGUST 27, 2013

### A. Background

The Bankruptcy Official Forms Modernization Project (FMP) began its work in 2008. The project is being carried out by an ad hoc group composed of members of the Advisory Committee on Bankruptcy Rules' Subcommittee on Forms working in liaison with representatives of other relevant Judicial Conference committees.

As explained in an earlier memorandum, the dual goals of the FMP are to improve the official bankruptcy forms and to improve the interface between the forms and available technology. The judiciary is in the process of developing "the next generation" of CM/ECF (Next Gen), and the modernized forms are being designed to use the enhanced technology that will become available through Next Gen. The Advisory Committee has decided to implement the modernized forms in stages, which should allow for fuller testing of the technological features and a smoother transition. As discussed in greater detail below, a small number of the modernized forms will be effective on December 1, 2013, others will be effective December 1, 2014, and the bulk of the forms should be effective on December 1, 2015.

Although delivery of Next Gen to the courts will start in mid-2014, it is unclear how quickly the courts will implement it. Before the courts can "go live" on Next Gen, they will need to be on a centralized server and do testing, training, and other tasks. By the time the bulk of the

forms become effective in December 2015, it is expected that most courts will be live on Release 1 of Next Gen.

From a forms perspective, the major change in Next Gen will be the ability to store all forms information as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose. The use of centralized servers will not prevent local courts from extracting whatever forms data they want and displaying it in a customized format.

The data on the published forms is frequently accessed by both judiciary and non-judiciary end users. Once the judiciary implements Next Gen, judges and clerks' staff will be able to use forms data to generate customized reports. It is unclear what access to forms data non-judiciary users will have in Release 1 of Next Gen. Providing such access will require development of both pertinent policies of the Judicial Conference of the United States (JCUS) and pertinent technology in Next Gen. Currently, Release 1 is not scheduled to include technology that would allow non-judiciary users to access forms data in Next Gen.

#### B. Spring 2013 Advisory Committee Meeting

During the spring 2013 Advisory Committee meeting, most of the forms modernization discussion focused on the comments received during the public comment period on the published forms—the fee waiver and installment fee forms (3A and 3B), the income and expense forms (6I and 6J), and the means test forms (22A-1, 22A-2, 22B, 22C-1, and 22C-2).

Before discussing the individual forms, the Committee considered comments on the overall project and the published forms. Those comments fell primarily into the following categories:

- support for the new forms;

- dislike of the new forms and a preference for maintaining the current forms;
- concern that the forms contain too much shading, too much white space, and too
- many pages, all of which will increase printing, mailing, and electronic transmission costs;
- concern that the forms will encourage pro se filings, to the detriment of the debtors and the courts; and
- expressions of a need for a clear statement about the extent to which software-generated forms can deviate from the graphic and formatting styles of the proposed forms, such as by omitting instructions and omitting or collapsing inapplicable sections.

After reviewing the reasons for the project and the guiding principles behind the redesign, the Committee unanimously concluded that the project should proceed. In response to the numerous comments about shading, the Committee accepted the FMP's recommendation that shading should largely be eliminated. The Committee agreed with the FMP's redesign of the forms, which retains the black banner for the "part" designation but uses a different format for the title of each part and largely eliminates shading from the balance of each of the forms.

The Advisory Committee also agreed with the FMP's assessment that the increased page length was justified. The increase in the page length is a function of several factors. First, in an effort to increase accuracy and ease of use, and to create a form in which answers can populate a usable database of answers, the forms ask more specific questions and often prompt the debtor to provide an answer. Second, rather than providing a dense set of instructions at the beginning of a form and then blank spaces for the answers, the forms provide instructions where the debtor is likely to need them. Third, there is more space for answers to some of the questions. Finally, the forms often include examples to help the debtor understand what information is being requested.

The Committee agreed with the FMP that this approach is likely to provide more accurate, usable information.

Before turning to the specific published forms, the Advisory Committee considered a request to revise the proposed form numbering scheme so that it is closer to the current scheme. After discussion, the Advisory Committee agreed and adopted a revised numbering scheme.

The Advisory Committee decided to recommend implementation of the published fee waiver and installment fee forms (3A and 3B) and the income and expense forms (6I and 6J), effective December 1, 2013, with several changes from the published versions to address some of the comments.

- Form 3A (*installment payment of filing fees*) was revised to move out of the form and into the instructions the statement on line 2 of the published form that a debtor may ask the court to extend the deadline for payment of the final fee installment. In addition, the Committee decided to revise the statement in the signature box regarding restrictions on payments prior to payment of the filing fee in full to clarify that the restriction applies only to payments for services in connection with the case.
- Form 3B (*waiver of filing fees*) was revised to limit the request for information about prior filings to the debtor, not the debtor and the debtor's spouse. The request for information about governmental assistance was revised on both Form 3B and Schedule I to harmonize the two forms.
- Form 6I (*income*). The form was clarified through an instruction contained at the beginning of the form as to when information must be provided regarding a non-filing spouse's income. There were two changes regarding payroll deductions—a separate payroll deduction for domestic support obligations was added and retirement plan

contributions were separated into mandatory and voluntary categories.

- Form 6J (*expenses*) was revised in several respects. The form was clarified through an instruction contained at the beginning of the form as to when information must be provided regarding a non-filing spouse's expenses. The form eliminated the second column for identifying expenses in chapter 13 cases if the plan is confirmed, but the form was revised so that it could be used to supplement an earlier filed Schedule J. Questions about who lives in the debtor's household were revised and shortened. An expense item for student loan payments was eliminated.

As a result of the comments on the means test forms (22A-1, 22A-2, 22B, 22C-1, and 22C-2) and the recommendations of the FMP, the Advisory Committee decided that substantive revisions to the means test forms should be made and that republication would be required. The Form 22 drafters revised the forms and created new Official Form 22A-1Supp that can be used by those claiming exemptions based on certain types of military service. This permitted uniform line numbering. The form added a new instruction about payment of a domestic support obligation by one spouse to the other debtor. The provision, based on *Hamilton v. Lanning*, that requires disclosure of changes that are virtually certain to occur post-bankruptcy, was revised to provide that debtors must identify changes during the projected life of the plan, not just the twelve months after filing.

The Advisory Committee decided to recommend to the Standing Committee that the balance of the modernized individual case commencement forms be published this year, although as explained below, they will not become effective until the non-individual forms become effective (currently projected to be December, 2015).

Last month, the Standing Committee published the revised means test forms and the

balance of the modernized individual case commencement forms. Absent further comments requiring substantive revisions, it is expected that the modernized means test forms will become effective on December 1, 2014, and the rest of the modernized individual case commencement forms will be deferred until December 1, 2015, when the non-individual forms will be ready for implementation.

B. FMP Progress Since the Spring 2013 Advisory Committee Meeting

The FMP met in Washington D.C. on June 24, 2013. Because the individual forms had already been readied for publication, the project members spent the bulk of the time discussing the non-individual forms. Those forms had been drafted and tested, and many comments were received as a result of the testing. The group reviewed a number of the comments. Robby Robinson spoke to the group about the status and development of Next Gen.

The group decided to proceed with finalizing the forms in the following manner. Particular forms were assigned to review groups who had previously worked on the forms. Each review group was asked to:

- Compare the comparable individual and non-individual form to determine what differences there are and whether the differences are intentional or should be reconciled. If the latter, the review group suggested a reconciliation.
- Review each form with proposed amended Rule 9009 in mind because that rule will permit the user to shorten the completed forms by reproducing only answers that have been selected. The issue is whether all the options make sense if they stand alone. For example, rather than an option of “none of the above,” perhaps the answer should be more descriptive and delete any reference to selections above which will not be there when the form is collapsed.

- In reviewing forms that involve a signature block, determine whether changes are needed.
- Finalize forms if changes are needed.

The FMP goal for the non-individual forms has been to complete the drafting and committee notes in time to include them with the materials for the Fall 2013 Advisory Committee meeting in September so that the FMP can get Committee feedback. For the individual forms the goal is to complete the review process by the end of October. Through this process the FMP expects to reconcile the differences between individual and non-individual forms.

The FMP expects further revision after the public comment period, so the FMP is not asking the Advisory Committee to submit the modernized non-individual forms to the Standing Committee at this time. The FMP expects to bring a large number of forms to the Advisory Committee for consideration at its spring 2014 meeting. The non-individual forms that the FMP recommends for publication will be submitted then. In addition, the individual forms that were published in August may be submitted to the Advisory Committee for approval following revision after public comments.

The FMP has drafted two additional forms. A modernized version of the proof of claim form (B410) is attached. The Forms Subcommittee has not yet considered the draft. It is included for the consideration and comment by the Advisory Committee. The Forms Subcommittee will finalize the draft this winter and present a final draft proof of claim for consideration for publication at the Advisory Committee's spring 2014 meeting.

The second form is the attached draft Chapter 15 Petition for Recognition of a Foreign Proceeding (B401), which was drafted in response to suggestions by the U.S. Trustee program. The FMP project drafted it and transmitted it to the Cross-Border and Technology

Subcommittee, which has approved it. The advantage of creating a separate chapter 15 petition form is that it will eliminate questions pertinent only to chapter 15 from petitions that are filed under other chapters of the bankruptcy code.

D. Conclusion

**The FMP and the Subcommittee on Forms request that this Committee provide comments on the following forms:**

Official Forms B201, B202, B204, B205, B206Sum, B206A/B, B206D, B206E/F, B206G, B206H, B207, and B410.

**The FMP requests that this Committee ask the Standing Committee to approve publication of B401, the draft Chapter 15 Petition for Recognition of a Foreign Proceeding.**



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# 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 was 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 generally 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 generally 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 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

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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.
- ❑ *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.
- ❑ *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.
- ❑ *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*.)

## 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 Hold Claims Secured by Property* (Official Form 206D)
  - ❑ *Schedule E/F: Creditors Who Hold 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 206–Summary). 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 is a small business debtor and within 7 days after the petition is filed, must also file the following:

- ❑ 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)

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*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 Hold 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 Hold Claims Secured by Property (Official Form 206D)

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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 Hold Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Hold 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, or other security interests against property of the debtor.

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 Hold Claims Secured by Property* (Official Form 206D). Do not list the creditor again on *Schedule E/F: Creditors Who Hold 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	<u>first mortgage</u>
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	<u>remaining property value</u>
\$ 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 Hold Unsecured Claims (Official Form 206E/F)

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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 Hold Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Hold 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 Hold 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 Hold 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 Hold 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 Hold*

*Claims Secured by Property* (Official Form 206D). Do not list the creditor again on *Schedule E/F: Creditors Who Hold 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

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### What are priority unsecured claims?

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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 \$11,775 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 \$11,775 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 \$5,775 per farmer or fisherman is a priority claim. 11 U.S.C. § 507(a)(6).

- **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.

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### What are nonpriority unsecured claims?

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*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.

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### What if a claim has both priority and nonpriority amounts?

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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.

In Part 3, list all other creditors not listed before. List every creditor owed money by the debtor, regardless of the amount and even if the debtor plans to pay a particular debt.

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### On what date was a debt incurred?

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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)

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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 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.



# Glossary

## Definitions Used in the Forms for Non-Individuals Filing for Bankruptcy

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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 for debt** — Property of the debtor in which the debtor has given the creditor an interest to secure repayment of 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.

**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. In preparing the schedules, 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 prudent value in business. Examples include a strong brand or reputation, 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.

**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 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.

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**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	<b>Principal place of business</b>	<b>Mailing address, if different from principal place of business</b>
	Number Street _____	Number Street _____
	City State ZIP Code _____	P.O. Box _____
	City State ZIP Code _____	City State ZIP Code _____
	<b>Location of principal assets, if different from principal place of business</b>	
	County _____	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](http://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).
  - 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
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

If more than 2 cases, attach a separate list.

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 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**

- |                                  |  |  |
|----------------------------------|--|--|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |  |

**15. Estimated assets**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

**16. Estimated liabilities**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

**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. Signature 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 individual

\_\_\_\_\_  
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 has eliminated signature lines for individual debtors and non-attorney bankruptcy petition preparers.

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# TAB 8A.3

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**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:

Schedules of Assets and Liabilities (Official Form 206):

- Schedule A/B: Assets—Real and Personal Property* (Official Form 206A/B)
- Schedule D: Creditors Who Hold 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.

# TAB 8A.4

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**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							

Debtor \_\_\_\_\_  
Name

Case number *(if known)* \_\_\_\_\_

	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 <small>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.</small>		
					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.

# TAB 8A.5

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**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. 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).

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**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

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**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.

# TAB 8A.6

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**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 73 from *Schedule A/B*.....

\$ \_\_\_\_\_

1b. **Total personal property:**

Copy line 76 from *Schedule A/B*.....

\$ \_\_\_\_\_

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

Copy line 77 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

\$ \_\_\_\_\_

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# TAB 8A.7

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**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, cash equivalents, and financial assets

1. Does the debtor have any cash, cash equivalents, or financial assets?

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

**All cash, cash equivalents, and financial assets 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**

Lines 2 + 3 + 4 (including amounts on any additional sheets) = line 5. 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. _____	\$ _____

**8. Prepayments, including prepayments on executory contracts, leases, insurance, taxes, and rent**

Description, including name of holder of prepayment

8.1. \_\_\_\_\_ \$ \_\_\_\_\_  
8.2. \_\_\_\_\_ \$ \_\_\_\_\_

**9. Total of Part 2.**

Lines 7 + 8 = line 9. Copy the total to line 81.

\$ \_\_\_\_\_

**Part 3: Accounts receivable**

**10. Does the debtor have any accounts receivable?**

- No. Go to Part 4.  
 Yes. Fill in the information below.

**Current value of debtor's interest**

**11. Accounts receivable**

11a. 90 days old or less: \_\_\_\_\_ - \_\_\_\_\_ = ..... → \$ \_\_\_\_\_  
face amount doubtful or uncollectible accounts  
11b. Over 90 days old: \_\_\_\_\_ - \_\_\_\_\_ = ..... → \$ \_\_\_\_\_  
face amount doubtful or uncollectible accounts

**12. Total of Part 3**

Current value on lines 11a + 11b = line 12. Copy the total to line 82.

\$ \_\_\_\_\_

**Part 4: Investments**

**13. Does the debtor own any investments?**

- No. Go to Part 5.  
 Yes. Fill in the information below.

**Valuation method used for current value**      **Current value of debtor's interest**

**14. Mutual funds or publicly traded stocks not included in Part 1**

Name of fund or stock:

14.1. \_\_\_\_\_ \$ \_\_\_\_\_  
14.2. \_\_\_\_\_ \$ \_\_\_\_\_

**15. Non-publicly traded stock and interests in incorporated and unincorporated businesses, including any interest in an LLC, partnership, or joint venture**

Name of entity:

% of ownership:

15.1. \_\_\_\_\_ % \_\_\_\_\_ \$ \_\_\_\_\_  
15.2. \_\_\_\_\_ % \_\_\_\_\_ \$ \_\_\_\_\_

**16. Government bonds, corporate bonds, and other negotiable and non-negotiable instruments not included in Part 1**

Describe:

16.1. \_\_\_\_\_ \$ \_\_\_\_\_  
16.2. \_\_\_\_\_ \$ \_\_\_\_\_

**17. Total of Part 4**

Lines 14+ 15 + 16 = line 17. Copy the total to line 83.

\$ \_\_\_\_\_

**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

Lines 19+ 20+ 21 + 22 = line 23. 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.** Lines 28 + 29 + 30 + 31 + 32 = line 33. 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. <b>Office furniture</b> _____	\$ _____	_____	\$ _____
40. <b>Office fixtures</b> _____	\$ _____	_____	\$ _____
41. <b>Office equipment, including all computer equipment and communication systems equipment and software</b> _____	\$ _____	_____	\$ _____
42. <b>Collectibles</b> <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.** Lines 39 + 40 + 41 + 42 = line 43. 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)		
<b>47. Automobiles, vans, trucks, motorcycles, trailers, and titled farm vehicles</b>			
47.1 _____	\$ _____	_____	\$ _____
47.2 _____	\$ _____	_____	\$ _____
47.3 _____	\$ _____	_____	\$ _____
47.4 _____	\$ _____	_____	\$ _____
<b>48. Watercraft, trailers, motors, and related accessories</b> Examples: Boats, trailers, motors, floating homes, personal watercraft, and fishing vessels			
48.1 _____	\$ _____	_____	\$ _____
48.2 _____	\$ _____	_____	\$ _____
<b>49. Aircraft and accessories</b>			
49.1 _____	\$ _____	_____	\$ _____
49.2 _____	\$ _____	_____	\$ _____
<b>50. Other machinery, fixtures, and equipment (excluding farm machinery and equipment)</b>			
_____	\$ _____	_____	\$ _____

**51. Total of Part 8.**

Lines 47 + 48 + 49 + 50 = line 51. 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 <small>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.</small>	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.

Current value on lines 55.1 + 55.2 + 55.3 + 55.4 + 55.4 + 55.5 + 55.6 + entries from any additional sheets = line 56.  
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.

Lines 60 + 61 + 62 + 63 + 64 = line 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)

\_\_\_\_\_ Total face amount — \_\_\_\_\_ doubtful or uncollectible amount = → \$ \_\_\_\_\_

72. Tax refunds and unused net operating losses (NOLs)

Describe (for example, federal, state, local)

72.1 \_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_  
 72.2 \_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_  
 72.3 \_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
<b>73. Interests in insurance policies or annuities</b>			
_____	\$ _____	_____	\$ _____
<b>74. Causes of action against third parties (whether or not a lawsuit has been filed)</b>			
_____	\$ _____	_____	\$ _____
<b>Nature of claim</b>	_____		
<b>Amount requested</b>	\$ _____		
<b>75. Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off claims</b>			
_____	\$ _____	_____	\$ _____
<b>Nature of claim</b>	_____		
<b>Amount requested</b>	\$ _____		
<b>76. Trusts, equitable or future interests in property</b>			
_____	\$ _____	_____	\$ _____

77. **Other property of any kind not already listed** *Examples: Season tickets, country club membership*

77.1 \_\_\_\_\_ \$ \_\_\_\_\_  
77.2 \_\_\_\_\_ \$ \_\_\_\_\_

78. **Total of Part 11.**

Lines 71 + 72 + 73 + 74 + 75 + 76 + 77 = line 78. 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. <b>Cash, cash equivalents, and financial assets.</b> <i>Copy line 45, Part 1.</i>	\$ _____	
81. <b>Deposits and prepayments.</b> <i>Copy line 9, Part 2.</i>	\$ _____	
82. <b>Accounts receivable.</b> <i>Copy line 12, Part 3.</i>	\$ _____	
83. <b>Investments.</b> <i>Copy line 17, Part 4.</i>	\$ _____	
84. <b>Inventory.</b> <i>Copy line 23, Part 5.</i>	\$ _____	
85. <b>Agricultural assets.</b> <i>Copy line 33, Part 6.</i>	\$ _____	
86. <b>Office furniture, fixtures, and equipment, and collectibles.</b> <i>Copy line 43, Part 7.</i>	\$ _____	
87. <b>Machinery, equipment, and vehicles.</b> <i>Copy line 51, Part 8.</i>	\$ _____	
88. <b>Real property.</b> <i>Copy line 56, Part 9.</i> ..... →		\$ _____
89. <b>Intangibles and intellectual property.</b> <i>Copy line 66, Part 10.</i>	\$ _____	
90. <b>All other assets.</b> <i>Copy line 78, Part 11.</i>	+ \$ _____	
91. <b>Total.</b> Add lines 80 through 90 for each column. .... 91a.	\$ _____	+ 91b. \$ _____
92. <b>Total of all property on Schedule A/B.</b> Lines 91a + 91b = 92.....		\$ _____



# TAB 8A.8

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**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 Hold Claims Secured by Property**

12/15

Be as complete and accurate as possible.

**1. Do any creditors hold 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 Hold Secured Claims**

**2. List in alphabetical order all creditors who hold 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 collateral.	Column B Value of debtor's property that secures this claim
---	--

2.1 Creditor's name	Describe the property owned by debtor that is collateral
_____	\$ _____ \$ _____
<b>Creditor's mailing address</b> _____ _____	<b>Nature of the lien</b> _____
<b>Creditor's email address, if known</b> _____	<b>Basis of the claim</b> _____
<b>Date debt was incurred</b> _____	<b>Is the creditor an insider or related party?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Last 4 digits of account number</b> _____	<b>Is anyone else liable on this claim?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H).
<b>Do multiple creditors have an interest in the same collateral?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes. Specify each creditor, including this creditor, and its relative priority. _____ _____	<b>As of the petition filing date, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed
<b>2.2 Creditor's name</b>	<b>Describe the property owned by debtor that is collateral</b>
_____	\$ _____ \$ _____
<b>Creditor's mailing address</b> _____ _____	<b>Nature of the lien</b> _____
<b>Creditor's email address, if known</b> _____	<b>Basis of the claim</b> _____
<b>Date debt was incurred</b> _____	<b>Is the creditor an insider or related party?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Last 4 digits of account number</b> _____	<b>Is anyone else liable on this claim?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes. Fill out <i>Schedule H: Codebtors</i> (Official Form 206H).
<b>Do multiple creditors have an interest in the same collateral?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes. Have you already specified the relative priority? <input type="checkbox"/> No. Specify each creditor, including this creditor, and its relative priority. _____ _____ <input type="checkbox"/> Yes. The relative priority of creditors is specified on lines _____	<b>As of the petition filing date, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed

**3. Total of the dollar amounts from Part 1, Column A, including the amounts from the Additional Page, if any.**

\$ \_\_\_\_\_

Part 1: Additional Page

Column A	Column B
Amount of claim Do not deduct the value of collateral.	Value of collateral that secures this claim

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

**2.** Creditor's name \_\_\_\_\_ Describe the property owned by debtor that is collateral \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's mailing address \_\_\_\_\_  
\_\_\_\_\_

Nature of the lien \_\_\_\_\_

Basis of the claim \_\_\_\_\_

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 \_\_\_\_\_

As of the petition filing date, the claim is:  
Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Liquidated and neither contingent nor disputed

Do multiple creditors have an interest in the same collateral?  
 No  
 Yes. Have you already specified the relative priority?  
 No. Specify each creditor, including this creditor, and its relative priority.  
\_\_\_\_\_  
\_\_\_\_\_  
 Yes. The relative priority of creditors is specified on lines \_\_\_\_\_

**2.** Creditor's name \_\_\_\_\_ Describe the property owned by debtor that is collateral \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's mailing address \_\_\_\_\_  
\_\_\_\_\_

Nature of the lien \_\_\_\_\_

Basis of the claim \_\_\_\_\_

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 \_\_\_\_\_

As of the petition filing date, the claim is:  
Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Liquidated and neither contingent nor disputed

Do multiple creditors have an interest in the same collateral?  
 No  
 Yes. Have you already specified the relative priority?  
 No. Specify each creditor, including this creditor, and its relative priority.  
\_\_\_\_\_  
\_\_\_\_\_  
 Yes. The relative priority of creditors is specified on lines \_\_\_\_\_

**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. __	__ _ _ _

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# TAB 8A.9

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**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 Hold 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: 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><b>2.1</b> 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> <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><b>2.2</b> 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> <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><b>2.3</b> 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> <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>	\$ _____	\$ _____

**Part 1.** Additional Page

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

<b>4.1</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____	<b>Basis for the claim:</b> _____	
	<b>Last 4 digits of account number</b> _____	<b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.2</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____	<b>Basis for the claim:</b> _____	
	<b>Last 4 digits of account number</b> _____	<b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.3</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____	<b>Basis for the claim:</b> _____	
	<b>Last 4 digits of account number</b> _____	<b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.4</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____	<b>Basis for the claim:</b> _____	
	<b>Last 4 digits of account number</b> _____	<b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.5</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> None of the above	\$ _____
	<b>Date or dates debt was incurred</b> _____	<b>Basis for the claim:</b> _____	
	<b>Last 4 digits of account number</b> _____	<b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

**Part 2:** Additional Page

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

4.\_\_\_\_ Nonpriority creditor's name and mailing address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

Date or dates debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?  
 No  
 Yes

4.\_\_\_\_ Nonpriority creditor's name and mailing address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

Date or dates debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?  
 No  
 Yes

4.\_\_\_\_ Nonpriority creditor's name and mailing address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

Date or dates debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?  
 No  
 Yes

4.\_\_\_\_ Nonpriority creditor's name and mailing address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

Date or dates debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?  
 No  
 Yes

4.\_\_\_\_ Nonpriority creditor's name and mailing address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

Date or dates debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?  
 No  
 Yes

**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.

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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: Property* (Official Form 206A/B).

2. List in alphabetical order all other parties to the contract or lease

State what the contract or lease is for, and the term remaining on it

2.1 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2.2 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2.3 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2.4 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2.5 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2.6 Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

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 other parties to the contract or lease

State what the contract or lease is for, and the term remaining on it

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

2. Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
\_\_\_\_\_

# TAB 8A.11

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**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

**Additional Page if Debtor Has More Codebtors**

**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



# TAB 8A.12

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## 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, cash equivalents, and financial assets*, includes cash equivalents or financial assets and a shortened list of examples. All investment vehicles 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*, prepayments have been added, and examples have been provided. 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, 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 list the basis for the claim 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 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, the basis for the 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.

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**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)
<b>From the beginning of the fiscal year to filing date:</b>	From _____ to Filing date MM / DD / YYYY	Operating a business Other _____	\$ _____
<b>For prior year:</b>	From _____ to _____ MM / DD / YYYY	Operating a business Other _____	\$ _____
<b>For the year before that:</b>	From _____ to _____ MM / DD / YYYY	Operating a business 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)
<b>From the beginning of the fiscal year to filing date:</b>	From _____ to Filing date MM / DD / YYYY	_____	\$ _____
<b>For prior year:</b>	From _____ to _____ MM / DD / YYYY	_____	\$ _____
<b>For the year before that:</b>	From _____ to _____ 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	_____ _____ _____	\$ _____	_____
<b>Relationship to debtor</b> _____			
4.2. _____ Insider's name _____ Street _____ _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
<b>Relationship to debtor</b> _____			

**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. _____	_____	_____ Name	Pending
_____	_____	_____ Street	On appeal
_____	_____	_____ City State ZIP Code	Concluded
7.2. _____	_____	_____ Name	Pending
_____	_____	_____ Street	On appeal
_____	_____	_____ City State ZIP Code	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
	_____	Name _____ Street _____ City _____ State _____ ZIP Code _____
	Case number	
	_____	
	Date of order or assignment	
	_____	

**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 _____	_____	_____	\$ _____
<b>Recipient's relationship to debtor</b>			
_____			
9.2. Recipient's name _____ Street _____ City _____ State _____ ZIP Code _____	_____	_____	\$ _____
<b>Recipient's relationship to debtor</b>			
_____			

**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 <i>Schedule A/B: Property</i> .	_____	\$ _____
_____			



**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. \_\_\_\_\_ \$ \_\_\_\_\_

<b>Address</b>	_____	_____	\$ _____
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. \_\_\_\_\_ \$ \_\_\_\_\_

<b>Address</b>	_____	_____	\$ _____
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
-------------------------	-----------------------------------	---------------------------	-----------------------

\_\_\_\_\_ \$ \_\_\_\_\_

<b>Trustee</b>	_____		
_____			

**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	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
City _____ State _____ ZIP Code _____	_____	_____
<b>Location where patient records are maintained</b> (if different from facility address). If electronic, identify any service provider.		<b>How are records kept?</b>
		<i>Check all that apply:</i>
		Electronically
		Paper
<b>Facility name and address</b>		
<b>Nature of the business operation, including type of services the debtor provides</b>		
<b>If debtor provides meals and housing, number of patients in debtor's care</b>		

15.2. _____ Facility name	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
City _____ State _____ ZIP Code _____	_____	_____
<b>Location where patient records are maintained</b> (if different from facility address). If electronic, identify any service provider.		<b>How are records kept?</b>
		<i>Check all that apply:</i>
		Electronically
		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:

<b>Name of plan</b>	<b>Employer identification number of the plan</b>
_____	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-____-____-____	Checking Savings Money market Brokerage Other _____	_____	\$ _____
18.2.	_____ Name _____ Street _____ City State ZIP Code	XXXX-____-____-____	Checking Savings Money market Brokerage 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	_____ _____ _____ <b>Address</b> _____ _____	_____ _____ _____	No Yes

**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	_____ _____ _____ <b>Address</b> _____ _____	_____ _____ _____	No Yes

**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
_____	_____	_____	Pending
<b>Case number</b>	Name	_____	On appeal
_____	Street	_____	Concluded
	_____	_____	
	City State ZIP Code	_____	

**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	Name	_____	
Street	Street	_____	
_____	_____	_____	
City State ZIP Code	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 _____ City _____ State _____ ZIP Code _____	_____ _____ _____	EIN: _____ - _____ <b>Dates business existed</b> From _____ To _____
25.2. Name _____ Street _____ City _____ State _____ ZIP Code _____	_____ _____ _____	EIN: _____ - _____ <b>Dates business existed</b> From _____ To _____
25.3. Name _____ Street _____ City _____ State _____ ZIP Code _____	_____ _____ _____	EIN: _____ - _____ <b>Dates business existed</b> 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																		
<table border="1" style="width: 100%;"> <thead> <tr> <th colspan="3">Name and address</th> </tr> </thead> <tbody> <tr> <td style="width: 60%;">26a.1. _____ Name</td> <td colspan="2"></td> </tr> <tr> <td>_____</td> <td colspan="2"></td> </tr> <tr> <td>Street</td> <td colspan="2"></td> </tr> <tr> <td>_____</td> <td colspan="2"></td> </tr> <tr> <td>City</td> <td style="width: 20%;">State</td> <td style="width: 20%;">ZIP Code</td> </tr> </tbody> </table>	Name and address			26a.1. _____ Name			_____			Street			_____			City	State	ZIP Code	From _____ To _____
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26a.1. _____ Name																			
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Street																			
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City	State	ZIP Code																	

	Dates of service																		
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Name and address																			
26a.2. _____ Name																			
_____																			
Street																			
_____																			
City	State	ZIP Code																	

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																		
<table border="1" style="width: 100%;"> <thead> <tr> <th colspan="3">Name and address</th> </tr> </thead> <tbody> <tr> <td style="width: 60%;">26b.1. _____ Name</td> <td colspan="2"></td> </tr> <tr> <td>_____</td> <td colspan="2"></td> </tr> <tr> <td>Street</td> <td colspan="2"></td> </tr> <tr> <td>_____</td> <td colspan="2"></td> </tr> <tr> <td>City</td> <td style="width: 20%;">State</td> <td style="width: 20%;">ZIP Code</td> </tr> </tbody> </table>	Name and address			26b.1. _____ Name			_____			Street			_____			City	State	ZIP Code	From _____ To _____
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	Dates of service																		
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Name and address																			
26b.2. _____ Name																			
_____																			
Street																			
_____																			
City	State	ZIP Code																	

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

	If any books of account and records are unavailable, explain why														
<table border="1" style="width: 100%;"> <thead> <tr> <th colspan="2">Name and address</th> </tr> </thead> <tbody> <tr> <td style="width: 60%;">26c.1. _____ Name</td> <td></td> </tr> <tr> <td>_____</td> <td></td> </tr> <tr> <td>Street</td> <td></td> </tr> <tr> <td>_____</td> <td></td> </tr> <tr> <td>City</td> <td style="width: 20%;">State</td> </tr> <tr> <td></td> <td style="width: 20%;">ZIP Code</td> </tr> </tbody> </table>	Name and address		26c.1. _____ Name		_____		Street		_____		City	State		ZIP Code	_____ _____ _____
Name and address															
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



Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

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 _____	_____	_____	_____

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**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**

\_\_\_\_\_

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 – 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, 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.

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# TAB 8A.14

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**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**

**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). For more information, a separate document, *Instructions for Petition for Recognition of a Foreign Proceeding*, is available.

1. Debtor's name \_\_\_\_\_

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

**For non-individual debtors:**

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

OR

OR

**If the debtor is an individual, the last 4 digits of debtor's Social Security number or federal Individual Taxpayer Identification number (ITIN)**

**For individual debtors:**

Social Security number:

Individual Taxpayer Identification number (ITIN):

xxx - xx - \_\_\_\_\_ OR **9** xx - xx - \_\_\_\_\_

3. Foreign representative's name \_\_\_\_\_

4. Foreign proceeding in which the foreign representative has been appointed \_\_\_\_\_

5. Nature of the foreign proceeding

Check one:

- Foreign main proceeding
- 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?

- No. (Attach a statement identifying all foreign proceedings with respect to the debtor known to the foreign representative.)
- 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**

**Center of debtor's main interests:**

**Debtor's registered office, if different from center of debtor's main interests:**

Number Street

Number Street

P.O. Box

P.O. Box

City State ZIP Code

City State ZIP Code

County

County

**Individual debtor's habitual residence, if different from center of debtor's main interests:**

**Address of foreign representative:**

Number Street

Number Street

P.O. Box

P.O. Box

City State ZIP Code

City State ZIP Code

County

County

**10. Debtor's website (URL)**

\_\_\_\_\_

**11. Type of debtor**

Check one:

- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP)). Attach a corporate ownership statement containing the information described in Fed.R.Bankr.P. 7007.1.
- Partnership (excluding LLP)
- Individual
- Other. Specify: \_\_\_\_\_

**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 an 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**

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,

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X**

\_\_\_\_\_  
Signature of foreign representative

\_\_\_\_\_  
Printed name

**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, *Petition for Recognition of a Foreign Proceeding*, is new. The form, which applies to foreign proceedings involving individual and non-individual debtors, consolidates information formerly included on Official Form 1, *Voluntary Petition*.

Official Form B401 is required for any petition seeking recognition of a foreign proceeding under chapter 15 of the Bankruptcy Code. The form was created by the Forms Modernization Project as part of its review of the existing Official Forms. Official Forms B101, *Voluntary Petition for Individuals Filing for Bankruptcy*, and B201, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*, were created for voluntary petitions under other chapters of the Bankruptcy Code.

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). Additional foreign proceedings, if any, known to the foreign representative must be disclosed on Line 7. 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 identifying information, if known (Line 2), and center of main interest and other addresses (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 one of two checkboxes (Line 12). If neither is selected, the foreign representative must provide a statement explaining why venue in the district is appropriate. See 28 U.S.C. § 1410.

The petition must be signed by the foreign representative, under penalty of perjury, and by the foreign representative's attorney. The form includes a statement that the foreign representative has examined the information in the petition and has a reasonable belief that the information is true and correct.

# TAB 8A.15

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## 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](http://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:**

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 _____ Number Street _____ City State ZIP Code _____ Contact phone _____ 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?** \$ \_\_\_\_\_ **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. **Does this claim involve a right to setoff?**  No  
 Yes. Explain: \_\_\_\_\_

**11. 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).**

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.

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

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.

**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.**

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 \_\_\_\_\_

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# TAB 8A.16

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Current Current title  
No.

New No.\*

New title

Modernized Bankruptcy Forms Numbering Conversion Chart – Draft – 08152013			
<a href="#">B 1</a>	Voluntary Petition	B101	Voluntary Petition for Individuals Filing for Bankruptcy ( <i>incorporates exhibits, and replaces eviction judgment statement with new forms B101A and B</i> )
		B101A	Initial Statement About an Eviction Judgment Against You
		B101B	Statement About Payment of an Eviction Judgment Against You
		B201	Voluntary Petition for Non-Individuals Filing for Bankruptcy
	Exhibit A	B201A	Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11
	Exhibit C	B101 B201	Hazardous Property or Property That Needs Immediate Attention ( <i>incorporated in Forms B101 and B201</i> )
	Exhibit D	B101	Individual Debtor's Statement of Compliance with Credit Counseling Requirement ( <i>incorporated in Form B101</i> )
	[Chapter 15 questions from Voluntary Petition]	B401	Petition for Recognition of Foreign Proceeding ( <i>if a separate form is developed</i> )
<a href="#">B 2</a>	Declaration under Penalty of Perjury on Behalf of a Corporation or Partnership	B202	Declaration Under Penalty of Perjury On Behalf of a Corporation or Partnership ( <i>for petition, schedules, SOFA, etc.</i> )
<a href="#">B 3A</a>	Application and Order to Pay Filing Fee in Installments	B103A	Application for Individuals to Pay the Filing Fee in Installments ( <i>published as B3A</i> )
<a href="#">B 3B</a>	Application for Waiver of Chapter 7 Filing Fee	B103B	Application to Have the Chapter 7 Filing Fee Waived ( <i>published as B3B</i> )
<a href="#">B 4</a>	List of Creditors Holding 20 Largest Unsecured Claims	B104	For Individual Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders
		B204	For Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders ( <i>non-individuals</i> )
<a href="#">B 5</a>	Involuntary Petition	B105	Involuntary Petition Against an Individual

\*1XX = Individual Filing Package    2XX = Non-Individual Filing Package    3XX = Orders and Court Notices  
4XX = Add. Official Forms    XXXX = director's forms

Current No.	Current title	New No.*	New title
		B205	Involuntary Petition Against a Non-Individual
<a href="#">B6</a>	Cover Sheet for Schedules	No coversheet created.	
<a href="#">B6</a>	Summary of Schedules (Includes Statistical Summary of Certain Liabilities)	B106 -- Summary	A Summary of Your Assets and Liabilities and Certain Statistical Information ( <i>individuals</i> )
		B206 -- Summary	A Summary of Your Assets and Liabilities ( <i>non-individuals</i> )
<a href="#">B 6A</a>	Schedule A - Real Property	} B106A/B	Schedule A/B: Property ( <i>combines real and personal property, individuals</i> )
<a href="#">B 6B</a>	Schedule B - Personal Property		B206A/B
<a href="#">B 6C</a>	Schedule C - Property Claimed as Exempt	B106C	Schedule C: The Property You Claim as Exempt ( <i>individuals</i> )
<a href="#">B 6D</a>	Schedule D - Creditors Holding Secured Claims	B106D	Schedule D: Creditors Who Hold Claims Secured By Property ( <i>against individuals</i> )
		B206D	Schedule D: Creditors Who Hold Claims Secured By Property ( <i>against non-individuals</i> )
<a href="#">B 6E</a>	Schedule E - Creditors Holding Unsecured Priority Claims	} B106E/F	Schedule E/F: Creditors Who Have Unsecured Claims ( <i>against individuals, combines priority and non-priority</i> )
<a href="#">B 6F</a>	Schedule F - Creditors Holding Unsecured Nonpriority Claims		B206E/F
<a href="#">B 6G</a>	Schedule G - Executory Contracts and Unexpired Leases	B106G	Schedule G: Executory Contracts and Unexpired Leases ( <i>individuals</i> )
		B206G	Schedule G: Executory Contracts and Unexpired Leases ( <i>non-individuals</i> )
<a href="#">B 6H</a>	Schedule H - Codebtors	B106H	Schedule H: Your Codebtors ( <i>individuals</i> )
		B206H	Schedule H: Your Codebtors ( <i>non-individuals</i> )

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Current No.	Current title	New No.*	New title
<a href="#">B 6I</a>	Schedule I - Current Income of Individual Debtor(s)	B106I	Schedule I: Your Income ( <i>individuals – published as B6I</i> )
<a href="#">B 6J</a>	Schedule J- Current Expenditures of Individual Debtor(s)	B106J	Schedule J: Your Expenses ( <i>individuals- published as B6J</i> )
<a href="#">B 6</a>	Declaration Concerning Debtor's Schedules	B106 -- Declaration	Declaration About an Individual Debtor's Schedules
		B202	Declaration Under Penalty of Perjury On Behalf of a Corporation or Partnership ( <i>for petition, schedules, SOFA, etc</i> )
<a href="#">B 7</a>	Statement of Financial Affairs	B107	Your Statement of Financial Affairs for Individuals Filing for Bankruptcy
		B207	Statement of Your Financial Affairs ( <i>non-Individuals</i> )
<a href="#">B 8</a>	Chapter 7 Individual Debtor's Statement of Intention	B112	Statement of Intention for Individuals Filing Under Chapter 7
	New	B113	Chapter 13 Plan
<a href="#">B 9</a>	Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Deadlines	No coversheet created.	
<a href="#">B 9A</a>	Chapter 7 Individual or Joint Debtor No Asset Case	B 309A	Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline ( <i>for Individuals or Joint Debtors</i> )
<a href="#">B 9B</a>	Chapter 7 Corporation/Partnership No Asset Case	B 309C	Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline Set ( <i>for Corporations or Partnerships</i> )
<a href="#">B 9C</a>	Chapter 7 Individual or Joint Debtor Asset Case	B 309B	Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set ( <i>for Individuals or Joint Debtors</i> )
<a href="#">B 9D</a>	Chapter 7 Corporation/Partnership Asset Case (12/11)	B 309D	Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set ( <i>for Corporations or Partnerships</i> )

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**Current No.** **Current title**

**New No.\***

**New title**

<a href="#">B 9E</a>	Chapter 11 Individual or Joint Debtor Case	}	B 309E	Notice of Chapter 11 Bankruptcy Case <i>(for Individuals or Joint Debtors; former Alt version combined with Form B309E)</i>
<a href="#">B 9E(Alt.)</a>	Chapter 11 Individual or Joint Debtor Case			
<a href="#">B 9F</a>	Chapter 11 Corporation/Partnership Case	}	B 309F	Notice of Chapter 11 Bankruptcy Case <i>(for Corporations or Partnerships; former Alt version combined with Form B309F)</i>
<a href="#">B 9F(Alt.)</a>	Chapter 11 Corporation/Partnership Case			
<a href="#">B 9G</a>	Chapter 12 Individual or Joint Debtor Family Farmer		B 309G	Notice of Chapter 12 Bankruptcy Case <i>(for Individuals or Joint Debtors)</i>
<a href="#">B 9H</a>	Chapter 12 Corporation/Partnership Family Farmer		B 309H	Notice of Chapter 12 Bankruptcy Case <i>(for Corporations or Partnerships)</i>
<a href="#">B 9I</a>	Chapter 13 Case		B 309I	Notice of Chapter 13 Bankruptcy Case
<a href="#">B 10</a>	Proof Of Claim		B 410	Proof Of Claim
<a href="#">B 10A</a>	Proof Of Claim, Attachment A		B 410A	Proof Of Claim, Attachment A
<a href="#">B 10S1</a>	Proof Of Claim, Supplement 1		B 410S1	Proof Of Claim, Supplement 1
<a href="#">B 10S2</a>	Proof Of Claim, Supplement 2		B 410S2	Proof Of Claim, Supplement 2
<a href="#">B 11A</a>	General Power of Attorney		B 1101	<i>(if converted to a Director's Form)</i>
<a href="#">B 11B</a>	Special Power of Attorney		B 1102	<i>(if converted to a Director's Form)</i>
<a href="#">B 12</a>	Order and Notice for Hearing on Disclosure Statement		B 1200	<i>(if converted to a Director's Form)</i>
<a href="#">B 13</a>	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof		B 1300	<i>(if converted to a Director's Form)</i>
<a href="#">B 14</a>	Ballot for Accepting or Rejecting Plan		B 1400	<i>(if converted to a Director's Form)</i>
<a href="#">B 15</a>	Order Confirming Plan		B 1500	<i>(if converted to a Director's Form)</i>
<a href="#">B 16A</a>	Caption		B 416A	
<a href="#">B 16B</a>	Caption (Short Title)		B 416B	

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Current No.	Current title	New No.*	New title
<a href="#">B 16C</a>	[Abrogated]	N/A	
<a href="#">B 16D</a>	Caption for Use in Adversary Proceeding other than for a Complaint Filed by a Debtor	B 416D	
<a href="#">B 17</a>	Notice of Appeal under 28 U.S.C. §158(a) or (b) from a Judgment, Order or Decree of a Bankruptcy Court	B 417A	Notice Of Appeal And Statement Of Election ( <i>Effective December 1, 2014</i> )
	New	B417B	Optional Appellee Statement Of Election To Proceed In District Court ( <i>effective December 1, 2014</i> )
	New	B417C	Certificate of Compliance With Rule 8015(a)(7)(B) or 8016(d)(2)) ( <i>effective December 1, 2014</i> )
<a href="#">B 18</a>	Discharge of Debtor	B 318	Discharge of Debtor in a Chapter 7 Case
<a href="#">B 19</a>	Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer	B119	Bankruptcy Petition Preparer's Notice, Declaration and Signature
<a href="#">B 20A</a>	Notice of Motion or Objection	B 420A	Notice of Motion or Objection
<a href="#">B 20B</a>	Notice of Objection to Claim	B 420B	Notice of Objection to Claim
<a href="#">B 21</a>	Statement of Social Security Number	B 121	Your Statement About Your Social Security Numbers
<a href="#">B 22A</a>	Statement of Current Monthly Income and Means Test Calculation (Chapter 7)	B 108-1	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation ( <i>published as B22A-1</i> )
		B 108-1Supp	Chapter 7 means test exemption attachment ( <i>published as B22A-1Supp</i> )
		B 108-2	Chapter 7 Means Test Calculation ( <i>published as B22A-2</i> )
<a href="#">B 22B</a>	Statement of Current Monthly Income (Chapter 11)	B 109	Chapter 11 Statement of Your Current Monthly Income ( <i>published as B22B</i> )
<a href="#">B 22C</a>	Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)	B 110-1	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period ( <i>published as B22C-1</i> )
		B 110-2	Chapter 13 Calculation of Your Disposable Income ( <i>published as B22C-2</i> )
<a href="#">B 23</a>	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	B 423	Certification About a Financial Management Course

Comment [EW1]: I added a line to the bottom of the last two cells on this entry

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Current No.	Current title	New No.*	New title
<a href="#">B 24</a>	Certification to Court of Appeals	B 424	
<a href="#">B 25A</a>	Plan of Reorganization in Small Business Case under Chapter 11	B 425A	
<a href="#">B 25B</a>	Disclosure Statement in Small Business Case under Chapter 11	B 425B	
<a href="#">B 25C</a>	Small Business Monthly Operating Report	B 425C	
<a href="#">B 26</a>	Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest	B 426	
<a href="#">B 27</a>	Reaffirmation Agreement Cover Sheet	B427	Cover Sheet for Reaffirmation Agreement
<b>DIRECTOR FORMS</b>			
	New	B 2060I	Schedule I: Income ( <i>non-individuals</i> )
	New	B 2060J	Schedule J: Expenses ( <i>non-individuals</i> )
<a href="#">B 13S</a>	Order Conditionally Approving Disclosure Statement, Fixing Time for Filing Acceptances or Rejections of Plan, and Fixing the Time for Filing Objections to the Disclosure Statement and to the Confirmation of the Plan, Combined with Notice Thereof and of the Hearing on Final Approval of the Disclosure Statement and the Hearing on Confirmation of the Plan	B 1300S	
<a href="#">B 15S</a>	Order Finally Approving Disclosure Statement and Confirming Plan	B 1500S	
<a href="#">B 18F</a>	Discharge of Debtor After Completion of Chapter 12 Plan	B 1800F	
<a href="#">B 18FH</a>	Discharge of Debtor Before Completion of Chapter 12 Plan	B 1800FH	
<a href="#">B 18J</a>	Discharge of Joint Debtors (Chapter 7)	B 318	Order of Discharge ( <i>combined with Forms B18 and B18JO</i> )
<a href="#">B 18JO</a>	Discharge of One Joint Debtor (Chapter 7)	B 318	Order of Discharge ( <i>combined with Forms B18 and B18J</i> )
<a href="#">B 18RI</a>	Discharge of Individual Debtor in a Chapter 11 Case	B 1800RI	
<a href="#">B 18W</a>	Discharge of Debtor After Completion of Chapter 13	B 1800W	

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Current No.	Current title	New No.*	New title
	Plan		
<a href="#">B 18WH</a>	Order Discharging Debtor Before Completion of Chapter 13 Plan	B 1800WH	
<a href="#">B 104</a>	Adversary Proceeding Cover Sheet	B 1040	
<a href="#">B 131</a>	Exemplification Certificate	B 1310	
<a href="#">B 132</a>	Application for Search of Bankruptcy Records	B 1320	
<a href="#">B 133</a>	Claims Register	B 1330	
<a href="#">B 200</a>	Required Lists, Schedules, Statements and Fees	B 2000	
<a href="#">B 201A</a>	Notice to Individual Consumer Debtor	B 2010	
<a href="#">B 201B</a>	Certification of Notice to Individual Consumer Debtor(s)	B 101	<i>(certification is included in the petition)</i>
<a href="#">B 202</a>	Statement of Military Service	B 2020	
<a href="#">B 203</a>	Disclosure of Compensation of Attorney for Debtor	B 2030	Attorney's Disclosure of Compensation
<a href="#">B 204</a>	Notice of Need to File Proof of Claim Due to Recovery of Assets	B 2040	
<a href="#">B 205</a>	Notice to Creditors and Other Parties in Interest	B 2050	
<a href="#">B 206</a>	Certificate of Commencement of Case	B 2060	
<a href="#">B 207</a>	Certificate of Retention of Debtor In Possession	B 2070	
<a href="#">B 210A</a>	Transfer of Claim Other Than for Security	B 2100A	
<a href="#">B 210B</a>	Notice of Transfer of Claim Other Than for Security	B 2100B	
<a href="#">B 230A</a>	Order Confirming Chapter 12 Plan	B 2300A	
<a href="#">B 230B</a>	Order Confirming Chapter 13 Plan	B 2300B	
<a href="#">B 231A</a>	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 12 Plan	B 2310A	
<a href="#">B 231B</a>	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 13 Plan	B 2310B	
<a href="#">B 240A</a>	Reaffirmation Documents	B 2400A	

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Current No.	Current title	New No.*	New title	
<a href="#">B 240B</a>	Motion for Approval of Reaffirmation Agreement	B 2400B		
<a href="#">B 240C</a>	Order on Reaffirmation Agreement	B 2400C		
<a href="#">B 240A/B ALT</a>	Reaffirmation Agreement	B 2400A/B ALT		
<a href="#">B 240C ALT</a>	Order on Reaffirmation Agreement	B 2400C ALT		
<a href="#">B 250A</a>	Summons in an Adversary Proceeding	B 2500A		
<a href="#">B 250B</a>	Summons and Notice of Pretrial Conference in an Adversary Proceeding	B 2500B		
<a href="#">B 250C</a>	Summons and Notice of Trial in an Adversary Proceeding	B 2500C		
<a href="#">B 250D</a>	Third-Party Summons	B 2500D		
<a href="#">B 250E</a>	Summons to Debtor in Involuntary Case	B 2500E		
<a href="#">B 250F</a>	Summons in a Chapter 15 Case Seeking Recognition of a Foreign Nonmain Proceeding	B 2500F		
<a href="#">B 253</a>	Order for Relief in an Involuntary Case	B 2530		
<a href="#">B 254</a>	Subpoena for Rule 2004 Examination	B 2540	Subpoena for Rule 2004 Examination	
<a href="#">B 255</a>	Subpoena in an Adversary Proceeding	} B 2550	Subpoena to Appear and Testify at a Hearing or Trial in a Bankruptcy Case (or Adversary Proceeding) <i>(effective December 1, 2013)</i>	
<a href="#">B 256</a>	Subpoena in a Case Under the Bankruptcy Code		B 2560	Subpoena to Testify at a Deposition in a Bankruptcy Case (or Adversary Proceeding) <i>(effective December 1, 2013)</i>
			B2570	Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (or Adversary Proceeding) <i>(effective December 1, 2013)</i>
<a href="#">B 260</a>	Entry of Default	B 2600		
<a href="#">B 261A</a>	Judgment by Default	B 2610A		
<a href="#">B 261B</a>	Judgment by Default	B 2610B		
<a href="#">B 261C</a>	Judgment in an Adversary Proceeding	B 2610C		
<a href="#">B 262</a>	Notice of Entry of Judgment	B 2620		

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<b>Current No.</b>	<b>Current title</b>	<b>New No.*</b>	<b>New title</b>
<a href="#">B 263</a>	Bill of Costs	B 2630	
<a href="#">B 264</a>	Writ of Execution to the United States Marshal	B 2640	
<a href="#">B 265</a>	Certification of Judgment for Registration in Another District	B 2650	
<a href="#">B 270</a>	Notice of Filing of Final Report of Trustee, of Hearing on Applications for Compensation [and of Hearing on Abandonment of Property by the Trustee]	B 2700	
<a href="#">B 271</a>	Final Decree	B 2710	
<a href="#">B 280</a>	Disclosure of Compensation of Bankruptcy Petition Preparer	B 2800	Disclosure of Compensation of Bankruptcy Petition Preparer
<a href="#">B 281</a>	Appearance of Child Support Creditor or Representative	B 2810	
<a href="#">B 283</a>	Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)	B 2830	

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: SUGGESTION TO AMEND VOLUNTARY PETITION TO INCLUDE  
ADDITIONAL INFORMATION FOR SMALL BUSINESS CASES

DATE: AUGUST 19, 2013

Bankruptcy Judges Eric Frank and Bruce Fox (E.D. Pa.) have submitted a suggestion (13-BK-B) that the voluntary petition form be amended to include checkboxes for indicating whether a debtor initiating a small business case has attached the documents required by § 1116(1) of the Bankruptcy Code. That provision requires a debtor in a small business case to “append to the voluntary petition” its most recent balance sheet, statement of operations, cash-flow statements, and federal income tax return. Alternatively, the statute requires the small business debtor to attach a statement made under penalty of perjury that those documents have not been prepared or, in the case of the tax return, filed.<sup>1</sup> Judges Frank and Fox believe that small business debtors infrequently comply with this requirement. They suggest that “[t]his obligation would be better known and compliance would be enhanced if the voluntary petition referenced this small business debtor obligation and provided boxes for the Debtor to indicate either that the documents are appended or have not ‘been prepared.’”

The Subcommittee discussed the Suggestion during its July 23 conference call. **It recommends that the Suggestion be acted on favorably and that the Form Modernization Project (“FMP”) include in the Voluntary Petition for Individuals Filing for Bankruptcy**

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<sup>1</sup> In an involuntary case against a small business debtor, § 1116(1) imposes an obligation on the debtor or debtor in possession to submit the same documents within 7 days after the date of the order for relief.

**(proposed Official Form 101) and in the Voluntary Petition for Non-Individuals (proposed Official Form 201) an instruction to small business debtors to append the required documents.**

### Discussion

Section 101(51D) imposes a two-part test for the definition of “small business debtor.” First, the debtor must be “a person engaged in commercial or business activities . . . that has aggregate noncontingent liquidated secured and unsecured debts [excluding debts to insiders or affiliates] as of the date of the filing of the petition . . . in an amount not more than \$2,490,925.”<sup>2</sup> Second, the case must be one “in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor.”<sup>3</sup>

Rule 1020(a) requires a chapter 11 debtor to “state in the petition whether the debtor is a small business debtor.” The debtor’s statement controls unless the court finds that the statement is incorrect. Subdivision (b) of the rule authorizes the U.S. trustee and any party in interest to file an objection to the debtor’s statement no later than 30 days after the conclusion of the § 341 meeting or any amendment to the statement. Under subdivision (c), if a committee of unsecured creditors is appointed, the case does not proceed as a small business case unless the court later determines that the committee “has not been sufficiently active and representative to provide effective oversight of the debtor and that the debtor satisfies all other requirements for being a small business.”

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<sup>2</sup> This amount is adjusted every three years according to Code § 104.

<sup>3</sup> A small business case is one filed under chapter 11 in which the debtor is a small business debtor. 11 U.S.C. §101(51C).

Current Official Form 1 and proposed Official Forms 101 and 201 each includes a checkbox for a debtor filing a petition under chapter 11 to indicate that it is a small business debtor. Official Form 1 and the draft of Official Form 201 also require the debtor to indicate if its aggregate, noncontingent, liquidated debts are less than \$2,490,925. Proposed Form 101 does not include a checkbox for the amount of debts.

By requiring self-identification as a small business debtor in a voluntary petition, Rule 1020(a) facilitates the operation of § 1116(1). A debtor stating that it is a small business must comply with the statute and append the required documents to its petition. The Subcommittee agreed with Judges Frank and Fox that the addition to the petition forms of a reference to that requirement will likely lead to greater compliance.

The Suggestion proposed that two checkboxes be added to the petition: one stating that the documents are appended and the other stating that the documents have not been prepared. A member of the Subcommittee noted that two checkboxes would not cover all possible situations. A debtor might attach some of the required documents, but not others because they had not been prepared. Rather than complicate the choices, the Subcommittee voted to recommend the addition of the following statement to item 8 of Form 201:

If you indicate that the debtor is a small business as defined in 11 U.S.C. § 101(51D), you must append the attachments required under 11 U.S.C. § 1116(a)(1).

Those attachments would include a statement made under penalty of perjury that any of the required documents had not been prepared or, in the case of the tax return, filed.

The Subcommittee also recommends that a similar statement be added to item 13 of Official Form 101. That proposed form was published this summer for comment. The post-publication addition of the instruction to the form would not require its republication.

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## Bankruptcy Subpoenas

Item 8C will be an oral report.

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*Stern v. Marshall* Amendments

Item 9A will be an oral report.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON BUSINESS ISSUES

RE: SUGGESTED MODIFICATION OF THE CHAPTER 11 BALLOT FORM

DATE: AUGUST 16, 2013

David A. Tilem, a lawyer in California, has submitted a suggestion (13-BK-D) to modify Official Form 14, the ballot for accepting or rejecting a plan of reorganization. The current form provides for voting by the holder of a secured, priority, or unsecured nonpriority claim. Mr. Tilem recommends modification of the form to include a place for a claim to be designated as “other,” with provision for an appropriate description. The Subcommittee considered the suggestion during a July 12, 2013, meeting by conference call. **Because the suggested modification does not appear to be necessary, the Subcommittee recommends that the Advisory Committee take no further action on the suggestion.**

### **Evaluation of the Suggestion**

The current chapter 11 ballot provides for voting by those holding claims or interests. The form contains a space to indicate acceptance or rejection of the plan if the voter is “the holder of a secured, priority, or unsecured nonpriority claim,” a space if the voter is “the holder of a bond, debenture, or other debt security,” and a space if the voter is “the holder of an equity interest.” Mr. Tilem believes that the ballot does not provide sufficient guidance regarding the treatment of claims based on Code § 365(b)(1) (cure of a default on an executory contract), § 502(b)(6) (damages from the termination of a real property lease), § 502(g) (rejection damages on an executory contract), and § 502(h) (recovery of property under §§ 522, 550, or 553).

The Subcommittee does not believe the suggestion has identified an ambiguity in the current ballot. Claims can be classified appropriately on the existing form. A holder of a claim arising out of the rejection of an executory contract, for example, would be treated as a general unsecured creditor with a claim as of the petition date. *See* § 502(g). That creditor would vote as the holder of an unsecured claim on Form 14. In any event, the ballot states the class of the creditor's claim. That is the key part of the ballot. The plan's classification of the holder's claim should resolve any confusion about what kind of claim is being voted.

Accordingly, the Subcommittee recommends taking no further action on the suggestion.

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## MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON PRIVACY, PUBLIC ACCESS, AND APPEALS

RE: SUGGESTION TO REQUIRE DISCLOSURE OF THE DEBTOR'S AGE ON BANKRUPTCY FORMS

DATE: AUGUST 16, 2013

David W. Ostrander, a chapter 7 trustee in Northampton, Massachusetts, has submitted a suggestion (13-BK-A) to require the disclosure of the debtor's age on bankruptcy forms. Although he recognizes the privacy implications of disclosing the debtor's exact birth date, Mr. Ostrander believes that providing the debtor's age instead would not raise privacy concerns and would be helpful for the trustee.

The Subcommittee considered the suggestion during its June 17, 2013, conference call. Members of the Subcommittee assessed the suggestion in the light of the Advisory Committee's past practice against requiring disclosure of a debtor's personal information on a form unless that information is necessary. **Because the Subcommittee concludes that an additional disclosure regarding the debtor's age is unnecessary, the Subcommittee recommends that no further action be taken on the suggestion.** This recommendation has been endorsed by the Subcommittee on Forms, which considered the suggestion during its July 23, 2013, conference call.

### **The Suggestion**

Mr. Ostrander urges that as the current bankruptcy forms are being revised, the age of the debtor or debtors should be disclosed somewhere—either on the voluntary petition, a schedule, or some other document. The suggestion does not explain why disclosure of debtors' ages on

forms would be necessary to the bankruptcy process, but Mr. Ostrander believes that this information would be helpful for trustees.

### **Discussion**

The Advisory Committee has been cautious about requiring debtors to disclose information on bankruptcy forms unless that information is deemed necessary to the bankruptcy process. Debtors' demographic information, although perhaps of interest to creditors, trustees, or academic observers, is generally not required on forms such as the voluntary petition.<sup>1</sup> There are circumstances in which bankruptcy forms request information about the debtor's age, but only as necessary to the bankruptcy process (*e.g.*, the means test form asks whether the debtor is over or under age 65 for purposes of applying the IRS National Standards allowance for health care costs).

Requiring the disclosure of the debtor's age does not serve any pressing need. If the concern behind the suggestion is that the debtor's age is needed to verify the debtor's identity, there are other ways of doing so. First, the trustee has access to the debtor's Social Security or Individual Taxpayer Identification number. Second, the trustee can examine the debtor at the § 341 meeting, where debtors are usually asked to present identification and to confirm their Social Security number. If instead the concern is that age is relevant to assessing a debtor's financial affairs, there are more direct approaches for making that assessment based on the financial information disclosed by the debtor.

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<sup>1</sup> See Katherine Porter, *The Pretend Solution: An Empirical Study of Bankruptcy Outcomes*, 90 TEX. L. REV. 103, 132 n.135 (2011) (noting that, unlike most other countries, the United States does not collect extensive demographic data on its bankruptcy forms).

Although the suggestion is unnecessary, it does not appear to violate Judicial Conference policy on privacy and public access to electronic case files. Bankruptcy Rule 9037, which was promulgated in keeping with Judicial Conference policy, requires that birthdates, but not birth years, be redacted from publicly accessible documents. Requiring the disclosure of the debtor's age would be in keeping with that limitation.

Nevertheless, in the absence of any evident need for disclosure of the debtor's age, the Subcommittee does not believe that the suggestion warrants further action.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES  
FROM: SUBCOMMITTEE ON PRIVACY, PUBLIC ACCESS, AND APPEALS  
RE: ADDITIONAL ISSUES REGARDING PART VIII RULES  
DATE: AUGUST 26, 2013

At the spring 2013 meeting, the Advisory Committee reviewed comments that were submitted in response to the publication of the revised Part VIII rules. The Committee approved changes to some of the published rules in response to comments and decided not to take action in response to others. The revised Part VIII rules have since been approved by the Standing Committee and transmitted to the Judicial Conference. *See* <http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/Agenda%20Books/Standing/ST2013-06.pdf#pagemode=bookmarks> (starting on p. 375). If approved by the Supreme Court next spring, they will go into effect on December 1, 2014, assuming Congress takes no action to the contrary.

The Advisory Committee at the spring meeting also identified a group of comments that did not require immediate action but for which it requested further consideration by the Subcommittee. During conference calls on June 17 and July 30, the Subcommittee discussed those comments, and it now makes recommendations regarding 10 of them. Three additional comments remain under consideration. The Subcommittee recommends that any amendments that are approved at this meeting be placed in the bullpen and not be presented to the Standing Committee for publication until after the revised Part VIII rules take effect and there is a

sufficient period of experience with them to determine whether any additional amendments are needed.

The Comments and the Subcommittee's Recommendations

**Rule 8002 (Time for Filing Notices of Appeal)**

*Comment 12-BK-033—Judge Christopher M. Klein (Bankr. E.D. Cal.): Rule 8002*  
*should include a provision like FRAP 4(a)(6), which permits the district court to reopen the time to file an appeal for someone who did not receive notice of entry of the judgment within 21 days after its entry.*

FRAP 4(a)(6), added to the appellate rules in 1991, authorizes the reopening of the time to appeal if three conditions are satisfied: (1) the moving party did not receive notice under Civil Rule 77(d) of the entry of the judgment or order within 21 days after entry; (2) the motion to reopen is filed within 180 days after the judgment or order was entered or within 14 days after moving party does receive notice of the entry under Rule 77(d), whichever is earlier; and (3) the court finds that no party would be prejudiced. A similar provision is included in 28 U.S.C. § 2107(c), which governs appeals to courts of appeal. Subsection (d) of that statute provides that “This section shall not apply to bankruptcy matters or other proceedings under Title 11.” FRAP 4(a)(6), however, is made applicable by FRAP 6(b) to bankruptcy appeals from district courts and BAPs to courts of appeal.

FRAP 4(a)(6) is not incorporated into the current Part VIII rules. **The Subcommittee recommends that it not be incorporated into revised Rule 8002.** The need for certainty as to the finality of a bankruptcy court order or judgment, particularly in chapter 11 cases, is often very important because the timing of transfers and other transactions may be based on the date of finality of an order or judgment. Incorporation of FRAP 4(a)(6) would potentially create a 180-

day window of uncertainty regarding the finality of an order or judgment. Although the provision contains some safeguards against undue disruption—including a court finding of no prejudice—the Subcommittee anticipated that a proposal to add this provision would be met with substantial opposition. Furthermore, there is no indication that the rule is needed. Especially with electronic service of the entry of judgments and orders, the likelihood of receipt of notice has increased since the days that notice was sent exclusively by mail.

*Comment 12-BK-033—Judge Christopher M. Klein (Bankr. E.D. Cal.): It would be useful for Rule 8002 to have a provision similar to FRAP 4(a)(7), which addresses when a judgment or order is entered for purposes of Rule 4(a). The provision helps clarify timing issues presented by the separate-document requirement.*

FRAP 4(a)(7) specifies when a judgment or order is entered for purposes of Rule 4(a) (Appeal in a Civil Case). It provides that, if Civil Rule 58(a) does not require a separate document, the judgment or order is entered when it is entered in the civil docket under Civil Rule 79(a). If Rule 58(a) does require a separate document, the judgment or order is entered when it is entered in the civil docket and *either* (1) the judgment or order is set forth on a separate document, *or* (2) 150 days have run from the entry in the civil docket. The rule was amended in 2002 to resolve several circuit splits that arose out of uncertainties about how Rule 4(a)(7)'s definition of when a judgment or order is “entered” interacted with the requirement in Civil Rule 58 that, to be “effective,” a judgment must be set forth on a separate document.

The Bankruptcy Rules have adopted Civil Rule 58 and its separate document requirement only for adversary proceedings. Rule 7058 was added in 2009, making Civil Rule 58 applicable in adversary proceedings. At the same time, Rule 9021 was amended to provide that a “judgment or order is effective when entered under Rule 5003.” The latter rule applies to contested matters.

The Subcommittee concluded that the rules specifying when a separate document is required and the impact of the requirement on the date of entry of the judgment are sufficiently confusing that, as suggested by Judge Klein, Rule 8002 would likely be improved by adding a provision similar to FRAP 4(a)(7). **The Subcommittee recommends that the following paragraph be added to revised Rule 8002(a):**

**Rule 8002. Time for Filing Notice of Appeal**

(a) IN GENERAL.

\* \* \* \* \*

(5) Entry Defined.

(A) A judgment, order, or decree is entered for purposes of this Rule 8002(a):

(i) when the judgment, order, or decree is entered in the docket under Rule 5003(a), or

(ii) if Rule 7058 applies and Rule 58(a) F.R. Civ. P. requires a separate document, when the judgment, order, or decree is entered in the docket under Rule 5003(a) and when the earlier of these events occurs:

- the judgment, order, or decree is set forth on a separate document, or
- 150 days have run from entry of the judgment, order, or decree in the docket under Rule 5003(a).

(B) A failure to set forth a judgment, order, or decree on a separate document when required by Rule 58(a) F.R. Civ. P. does not affect the validity of an appeal from that judgment, order, or decree.

### COMMITTEE NOTE

Paragraph (5) is added to subdivision (a) to clarify the effect of the separate-document requirement of Rule 58(a) F.R. Civ. P. on the entry of a judgment, order, or decree for the purpose of determining the time for filing a notice of appeal.

Rule 7058 adopts Rule 58 F.R. Civ. P. for adversary proceedings. If Rule 58(a) requires a judgment to be set out in a separate document, the time for filing a notice of appeal runs—subject to subdivisions (b) and (c)—from when the judgment is docketed and the judgment is set out in a separate document or, if no separate document is prepared, from 150 days from when the judgment is entered in the docket. The court’s failure to comply with the separate-document requirement of Rule 58(a), however, does not affect the validity of an appeal.

Rule 58 F.R. Civ. P. does not apply in contested matters. Instead, under Rule 9021, a separate document is not required, and a judgment or order is effective when it is entered in the docket. The time for filing a notice of appeal under subdivision (a) therefore begins to run upon docket entry in contested matters, as well as in adversary proceedings for which Rule 58 does not require a separate document.

### **Rule 8003 (Appeal as of Right—How Taken; Docketing the Appeal) and Rule 8004 (Appeal by Leave—How Taken; Docketing the Appeal)**

*Comment 12-BK-036—Mary P. Sharon, Clerk (1st Cir. BAP): There is an inconsistency between Rule 8003 and Rule 8004. Rule 8003(c) requires the bankruptcy clerk to serve the notice of appeal, whereas Rule 8004(a) places that duty on the appellant.*

There appears to be a reason for this difference regarding service. Rule 8003 governs appeals as of right. Subdivision (a)(1) requires the appellant to file a notice of appeal, and subdivision (c)(1) requires the bankruptcy clerk to serve the notice of appeal on counsel of record for each party to the appeal. These provisions mirror FRAP 3(a)(1) and (d)(1).

Rule 8004 governs appeals by leave. Subdivision (a) requires the appellant to file both a notice of appeal and a motion for leave to appeal. The documents must be accompanied by proof

of service unless served electronically using the court’s transmission equipment. The requirement of service by the appellant parallels FRAP 5(a)(1) (other than the reference to electronic service).

Although the Bankruptcy Rules follow the service requirements of the Appellate Rules, the inconsistency noted by Ms. Sharon arises because Rule 8004(a) requires a bankruptcy appellant seeking leave to appeal to file a notice of appeal in addition to a motion. FRAP 5 only requires the filing of a petition for permission to appeal. Rule 8004—by following FRAP 5 and requiring service by the appellant—thereby creates an inconsistency with Rule 8003 regarding service of the notice of appeal.

Current Rule 8001(b) provides that an “appeal from an interlocutory judgment, order, or decree of a bankruptcy judge as permitted by 28 U.S.C. § 158(a)(3) shall be taken by filing a notice of appeal, as prescribed in subdivision (a) of this rule, accompanied by a motion for leave to appeal prepared in accordance with Rule 8003 and with proof of service in accordance with Rule 8008.” It is not completely clear whether the proof-of-service requirement relates only to the motion or to the notice of appeal as well.<sup>1</sup>

Revised Rule 8004(a) eliminates this ambiguity by more clearly imposing the obligation to serve both the notice of appeal and the motion for leave to appeal on the appellant. **The Subcommittee recommends that no change be made to the service provisions of revised Rules 8003 and 8004.** The rules are consistent with the parallel FRAP provisions. Because an appellant seeking leave to appeal will have to serve its motion on other parties, the

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<sup>1</sup> Compare COLLIER ON BANKRUPTCY at ¶ 8001.11 (“[Under Rule 8001(b), t]here must be a notice of appeal as well as a motion for leave to appeal . . . . Those documents are to be accompanied with proof of service in accordance with Rule 8008, which requires service upon the other parties to the appeal.”), *with id.* at ¶ 8004.01 (“An appellant is not obliged to serve the notice of appeal on other parties to the appeal or on the United States trustee. That is the duty assigned to the bankruptcy clerk by Rule 8004.”) (footnotes omitted).

Subcommittee concluded that it makes sense to require service of the notice of appeal along with the motion.

#### **Rule 8004 (Appeal by Leave—How Taken; Docketing the Appeal)**

*In response to a comment suggesting that an appellate court be allowed to treat a motion for leave to appeal as a notice of appeal if a notice of appeal is not filed, the Subcommittee raised the following issue for further consideration: Should the requirement that a notice of appeal be filed, in addition to a motion for leave to appeal, be eliminated from revised Rule 8004?*

Although revised Rule 8004's notice of appeal requirement is consistent with existing Rule 8001(b), it could create a trap for litigants more familiar with the Appellate Rules than with the Bankruptcy Rules. FRAP 5 requires a party seeking leave to appeal to file a petition for permission to appeal, but it does not require the filing of a notice of appeal as revised Rule 8004 does.

It is not clear why the decision was made in the Bankruptcy Rules to require a notice of appeal in addition to a motion for leave to appeal, although some members of the Subcommittee speculated that it was because the determination of finality is more difficult in bankruptcy cases than in civil litigation. The requirement that a notice of appeal be filed has been in Rule 8001(b) since the rule was promulgated.

**The Subcommittee recommends that no change be made to this aspect of revised Rule 8004.** No one questioned the need for a notice of appeal at either of the mini-conferences on the Part VIII revision or in any of the comments submitted about the published rules. It was only raised within the Subcommittee. Bankruptcy appellate practitioners are accustomed to the requirement, and the Subcommittee reasoned that someone not familiar with bankruptcy

appellate practice would be more likely to read the rule carefully. Thus greater confusion would result from a change in the requirement than in maintaining it.

### **Rule 8005 (Election to Have an Appeal Heard by the District Court Instead of the BAP)**

*Comment 12-BK-033—Judge Christopher M. Klein (Bankr. E.D. Cal.): Rule 8005 does not retain the provision of current Rule 8001(e)(2), which provides for the withdrawal of an election with the district court’s acquiescence.*

This provision was added to current Rule 8001 in 2008. In order for a party that elected to have its appeal heard by the district court, rather than the BAP, to withdraw that election, subdivision (e)(2) requires (1) that all the parties to the appeal enter into a written stipulation agreeing to the withdrawal and (2) that the district court grant the request. The Committee Note explains that the provision explicitly recognizes the district court’s authority to transfer the appeal to the BAP if the two conditions are satisfied. It also states that requiring the district court’s acquiescence “will prevent strategic behavior by the parties and avoid the wasting of judicial resources.”

**The Subcommittee recommends that no change be made to revised Rule 8005.** The determination of which court will hear an appeal needs to be made early. The Collier treatise describes current Rule 8001(e)(2) as applying when a party “has a change of heart.” 10 ALAN N. RESNICK & HENRY J. SOMMER, COLLIER ON BANKRUPTCY ¶ 8001.13 (16<sup>th</sup> ed. 2012). There does not seem to be a compelling reason to entertain such changes of heart. A party that fails to make a timely election to have a district judge hear an appeal may not later change that decision. The absence of the election-withdrawal provision in revised Rule 8005 favors resolution of an appeal by an Article III court, and in this post-*Stern* era, that may be a good result.



## **Rule 8006 (Certifying a Direct Appeal to the Court of Appeals)**

*12-BK-033—Judge Christopher M. Klein (Bankr. E.D. Cal.): Rule 8006(c) should provide an opportunity for the bankruptcy court to comment on the proceeding's suitability for direct appeal when a certification is jointly made by all appellants and appellees.*

Under 28 U.S.C. § 158(d)(2)(A), which is implemented by revised Rule 8006(c), all appellants and all appellees, acting jointly, may certify a proceeding for direct appeal to the court of appeals without any action being taken by the bankruptcy court, district court, or BAP. Judge Klein suggested that a provision be added to Rule 8006(c) that would be a counterpart to Rule 8006(e)(2). The latter provision authorizes a party to file a short supplemental statement regarding the merits of certification within 14 days after the court certifies a case for direct appeal on its own motion. Judge Klein suggested that the bankruptcy court have a similar opportunity to comment when the parties certify the appeal. Current Rule 8001(f), which governs certification of direct appeals, does not provide for such a statement by the court.

The Subcommittee concluded that, although certification by all parties is not likely to occur frequently, Judge Klein's suggestion was well taken. The court of appeals would likely benefit from the court's statement about whether the appeal satisfies one of the grounds for certification. The Subcommittee decided, however, that authorization should not be limited to the bankruptcy court. Because under Rule 8006(b) the matter might be deemed to be pending in the district court or BAP at the time or shortly after the parties file the certification, those courts should also be authorized to file a statement with respect to appeals pending before them. The authorization would be permissive, however, so a court would not be required to file a statement.

**The Subcommittee recommends that revised Rule 8006(c) be amended as follows:**

**Rule 8006. Certifying a Direct Appeal to the Court of Appeals**

\* \* \* \* \*

(c) JOINT CERTIFICATION BY ALL APPELLANTS AND APPELLEES.

(1) How Accomplished. A joint certification by all the appellants and appellees under 28 U.S.C. § 158(d)(2)(A) must be made by using the appropriate Official Form. The parties may supplement the certification with a short statement of the basis for the certification, which may include the information listed in subdivision (f)(2).

(2) Supplemental Statement by the Court. Within 14 days after the parties' certification, the bankruptcy court or the court in which the matter is then pending may file a short supplemental statement regarding the merits of the certification.

**COMMITTEE NOTE**

Subdivision (c) is amended to provide authority for the court to file a statement on the merits of a certification for direct review by the court of appeals when the certification is made jointly by all of the parties to the appeal. It is a counterpart to subdivision (e)(2), which allows a party to file a similar statement when the court certifies direct review on the court's own motion.

The bankruptcy court may file a supplemental statement within 14 days after the certification, even if the appeal is no longer pending before it according to subdivision (b). If the appeal is pending in the district court or BAP during that 14-day period, the appellate court is authorized to file a statement. In all cases, the filing of a statement by the court is discretionary.

## **Rule 8009 (Record on Appeal; Sealed Documents)**

*12-BK-005—Judge Robert J. Kressel (Bankr. D. Minn.); 12-BK-015—Judge Barry S. Schermer (Bankr. E.D. Mo.); 12-BK-040—Bankruptcy Clerks Advisory Group: Designation of the record should not be required. The 8th Cir. BAP has a rule that the record before the bankruptcy court is the record on appeal. The record does not have to be designated or copied. Instead the parties refer to the appropriate bankruptcy court docket numbers in their briefs, and BAP judges can review the entire bankruptcy court record electronically. Proposed Rule 8009 should at the least accommodate that practice.*

This suggestion expresses the direction in which many appellate courts are likely to move in the future. Because the recently appointed CM/ECF Subcommittee of the Standing Committee will likely consider this issue, **the Subcommittee recommends deferring consideration of the suggestion until after the CM/ECF Subcommittee submits its report.**

## **Rule 8010 (Completing and Transmitting the Record)**

*12-BK-008—National Conference of Bankruptcy Judges; BK-034—Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee; 12-BK-040—Bankruptcy Clerks Advisory Group: Rule 8010(b)(1) directs the bankruptcy clerk to transmit the record when it is complete. In some cases the record is never made complete because the parties fail to designate what the record should contain. The provision should be revised to fix an outside deadline for the clerk’s transmission of the record. Once the deadline passes, the clerk would transmit any items listed in proposed Rule 8009(a)(4) to which the clerk has access.*

Revised Rule 8010(b)(1) carries forward existing Rule 8007(b)’s requirement that the clerk transmit the record to the appellate court “when the record is complete.” Both bankruptcy rules are consistent with FRAP 11(b)(2) (“When the record is complete, the district clerk must

number the documents constituting the record and send them promptly to the circuit clerk . . .”). The Appellate Rules, however, do not present the same issue about incompleteness of the record that the comments address, because under those rules the parties do not designate some of the contents of the record. Thus, the district clerk does not face the problem of lack of party designation under FRAP 11(b)(2) that the bankruptcy clerk may face under Rule 8010(b)(1).

Because the language in Rule 8010(b)(1) about completeness of the record has existed since the promulgation of the Part VIII rules, clerks have likely developed procedures for handling the record when it is never completed due to party inaction. Revised Rule 8010(b)(1) does not create a new problem. The Subcommittee, however, took note of the fact that the comments were made by the Bankruptcy Clerks Advisory Group, as well as organizations of bankruptcy judges and lawyers. All three groups want the rule clarified in order to eliminate a problem they have encountered.

The problem will be mooted if the previous suggestion—to eliminate designation and the compilation of a record on appeal—is eventually adopted. **The Subcommittee therefore recommends that further action on this suggestion be deferred until the Subcommittee takes up again the suggestion regarding Rule 8009.**

*12-BK-014—Judge Dennis Montali (Bankr. N.D. Cal.): In some cases when the appellate court orders paper copies of the record to be delivered, it may be appropriate for the appellee to provide them. Add to the end of the first sentence of Rule 8010(b)(4), “or the appellee where appropriate.”*

Revised Rule 8010(b)(4) is based on the assumption that the record on appeal will generally be transmitted to the district court or BAP electronically, either by sending the record itself or sending notice that the record can be accessed electronically. If, however, the appellate

court directs that paper copies of the record be provided, subdivision (b)(4) provides that “the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant’s expense.” The provision is an adaptation of current Rule 8007(b). The current rule assumes the physical transmission of a paper record and provides that if “the bankruptcy appellate panel directs that additional copies of the record be furnished, the clerk of the bankruptcy appellate panel shall notify the appellant and, if the appellant fails to provide the copies, the clerk shall prepare the copies at the expense of the appellant.” The Appellate Rules do not contain an equivalent provision.

The issue of furnishing paper copies of the record is likely to be of diminishing importance as courts continue to adapt to the use of electronic storage and transmittal of documents. **The Subcommittee recommends that no action be taken on this suggestion.** Revised Rule 8010(b)(4) is consistent with the general rule that the appellant is responsible for perfecting the appeal, and no explanation is given for when it would be appropriate to place the burden of furnishing paper copies of the record on the appellee.

### **Rule 8011 (Filing and Service; Signature)**

*12-BK-005—Judge Robert J. Kressel (Bankr. D. Minn.); 12-BK-026—Judge S. Martin Teel, Jr. (Bankr. D.D.C.): Rule 8011(a)(2) should not follow the ill-advised rule of FRAP 25(a)(2)(B) of having different filing rules for briefs and appendices. The filing rules should be the same for those documents as for all others—requiring receipt by the clerk by the deadline.*

Revised Rule 8011(a)(2)(B)—like current Rule 8008(a) and FRAP 25(a)(2)(B)—provides that a brief<sup>2</sup> is timely filed if it is mailed to the clerk on or before the last day of filing.

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<sup>2</sup> Current Rule 8008(a) creates an exception only for the mailing of briefs, not appendices. The other two rules include both briefs and appendices in the exception.

This provision is an exception to the general rule that “filing is timely only if the clerk receives the document within the time fixed for filing.” *See* revised Rule 8011(a)(2)(A).

The rule regarding the filing of briefs is longstanding, and **the Subcommittee recommends that it not be changed.** To the extent that briefs are still mailed to the court, lawyers are accustomed to having until the end of the time fixed for filing to mail them. A change in this rule would likely serve as a trap for lawyers who are either more familiar with FRAP 25(a) or who do not keep up with all of the Bankruptcy Rule amendments. Moreover, with electronic filing of briefs becoming prevalent, the mailing rule is of less significance, and the difference between the general rule and the mailing exception is eliminated. *See* Rule 9006(a)(4) (“Unless a different time is set by a statute, local rule, or order in the case, the last day ends: (A) for electronic filing, at midnight in the court’s time zone . . .”).

#### The Subcommittee’s Continuing Consideration of Other Comments

The Subcommittee has retained three other comments on the revised Part VIII rules for further consideration. They concern whether a provision should be added to the rules providing for the issuance of a mandate by the district court and BAP upon the disposition of a bankruptcy appeal, and whether revised Rule 8023 should be amended to clarify the procedure for voluntary dismissal of appeals when (1) the appeal concerns an objection to discharge or (2) the trustee is a party to the appeal. It has been suggested that the requirements of Rules 7041 and 9019 for bankruptcy court review in those situations should also apply to appeals. The Subcommittee will make recommendations to the Advisory Committee regarding those comments at a later meeting.

# TABS 11-17

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Technology and Cross Border Insolvency  
Attorney Conduct and Health Care  
Suggestion 13-BK-G, Gary Streeting, Rule 1015(b)  
Suggestion 13-BK-H, Dan Dooley, Rule 2016  
Suggestion 13-BK-I, Judge Stuart Bernstein, Official Forms 9F, 9F(Alt.)  
Bankruptcy-Related Legislation  
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Items 11 to 17 will be oral reports.

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# TAB 18

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**Dugout for Suggestions and Issues Deferred for Consideration Later**

Rule/Form	Issue	Submitted by	Suggestion number	Last discussed	Status/Notes
Rule 1006/Form 3B/New Form	New Director's Form for 1930(f)(3) fee waivers	David S. Yen	11-BK-N	Consumer & Forms Subcomts. 7.23.13	Defer, guidelines before Judicial Conference
Rule 1006(b)	Minimum initial installment payment	Judge Waites	12-BK-I	Consumer Subcomt. 6.28.13	Defer, Dr. Johnson to research how many districts require an initial installment with the petition and the IFP rate in those districts
Rule 2002(n)	Is a full Rule 1005 caption with debtor's names for 8 years needed on all Rule 2002 notices?	Staff	NA	Consumer Subcomt. 6.28.13	Defer
Rules 7008, 7012	Consent to final adjudication by the bankruptcy judge on part of the proceeding	National Bankrupt. Conf.	12-BK-037	Business Subcomt. 2.27.13	Defer
Rules 7008, 7012	Provide for treating <i>Stern</i> issues in pre-answer motions	National Bankrupt. Conf.	12-BK-037	Business Subcomt. 2.27.13	Defer
New Rule 8009	Designation of record on appeal	Judges Kressel & Schermer, BCAD	12-BK-005 12-BK-015 12-BK-040	Appeals Subcomt. 7.30.13	Defer, wait for Standing Comt.'s CM/ECF subcomt.
New Rule 8010	Transmission of record on appeal	NCBJ, OR Bar, BCAD	12-BK-008 12-BK-034 12-BK-040	Appeals Subcomt. 7.30.13	Defer, wait for Standing Comt.'s CM/ECF subcomt.

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# TAB 19

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**Bankruptcy Rules Tracking Docket (By Rule or Form Number)**

**8.30.13**

<b>Suggestion</b>	<b>Docket No., Source &amp; Date</b>	<b>Status Pending Further Action</b>	<b>Tentative Effective Date</b>
<p><b>Rule 1006(b)</b> Courts may require a minimum initial payment with fee installment requests</p>	<p>Suggestion 12-BK-I Judge John Waites on behalf of the Bankruptcy Judges Advisory Group</p>	<p>6/12 - Consumer Subcommittee considered 9/12 - Committee discussed, referred to subcommittee for further consideration 11/12 - Subcommittee considered 4/13 - Committee considered 6/13 - subcommittee considered 9/13 - Committee agenda</p>	
<p><b>Rule 1006, New Form</b> Waiver of additional fees</p>	<p>Suggestion 11-BK-N Attorney David S. Yen</p>	<p>3/12 - Committee discussed, referred to Consumer Subcommittee 7/12 - Subcommittee considered 9/12 - Committee discussed, referred to subcommittee for further consideration 11/12 - Subcommittee considered 4/13 - Committee discussed 7/13 - Consumer and Forms subcommittees considered 9/13 - Committee agenda</p>	
<p><b>Rule 1007(a)(1), (a)(2)</b> Conform to relettered schedules</p>	<p>Committee proposal</p>	<p>6/13 - Consumer Subcommittee considered 9/13 - Committee agenda</p>	<p>12/1/15</p>

<p><b>Rule 1007(b)(7)</b> Allow financial management course provider to file notice of course completion</p>	<p>Suggestion 09-BK-I Dana C. McWay on behalf of the Next Generation Bankruptcy CM/ECF Clerk's Office Functional Requirements Group</p>	<p>4/10 - Committee considered, referred to Consumer Subcommittee 8/10 - Subcommittee considered 9/10 - Committee approved publication 6/11 - Standing Committee approved publication 8/11 - Published for comment 3/12 - Committee approved 6-12 - Standing Committee approved 9/12 - Judicial Conference approved 4/13 - Supreme Court approved</p>	<p>12/1/13</p>
<p><b>Rules 1010, 1011, 2002(q)</b> Chapter 15 amendments</p>	<p>Suggestion 13-BK-F Judge Barry S. Schermer</p>	<p>7/13 - Cross Border Insolvency Subcommittee considered 9/13 - Committee agenda</p>	
<p><b>Rule 1014</b> Cases filed in different districts by a debtor and certain affiliates</p>	<p>Suggestion 10-BK-J Judge Linda Riegler</p>	<p>4/11 - Committee discussed, referred to Business Subcommittee 6/11, 8/11 - Subcommittee considered 9/11 - Committee approved publication 11/11 - Referred to Subcommittee for further consideration 12/11 - Subcommittee considered 3/12 - Committee approved publication of revised amendment 6/12 - Standing Committee approved publication 8/12 - Published for comment 4/13 - Committee considered comments, approved 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda</p>	<p>12/1/14</p>

<b>Rule 1015(b)</b> Change “husband and wife” to “spouses”	Suggestion 13-BK-G Gary Streeting	9/13 - Committee agenda	
<b>Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, 9009</b> Amendments in connection with a chapter 13 form plan	Committee proposal	9/11 - Committee discussed 3/12 - Working group considered 3/12 - Committee discussed 8/12 - Working Group considered 9/12 - Committee discussed 11/12, 1/13, 2/13 - Working Group considered 1/13 - Form Plan Mini-Conference considered 4/13 - Consumer and Forms Subcommittees considered 4/13 - Committee approved publication of revised amendments 6/13 - Standing Committee approved publication 8/13 - Published for comment	12/1/15
<b>Rule 2002(f)(7)</b> Require notice of chapter 13 confirmation	Suggestion 12-BK-B Bankruptcy Noticing Working Group	3/12 - Committee discussed, referred to Consumer Subcommittee 6/12 - Subcommittee considered 9/12 - Committee discussed, referred to subcommittee for further consideration 11/12 - Subcommittee considered 4/13 - Committee considered 6/13 - Subcommittee considered 9/13 - Committee agenda	
<b>Rule 2002(h)</b> In chapter 13, limit notices to creditors who have not filed a claim	Suggestion 12-BK-M Judge Scott W. Dales	4/13 - Committee discussed, referred to Consumer Subcommittee 6/13 - Subcommittee considered 9/13 - Committee agenda	

<p><b>Rule 2002(n)</b> Is full Rule 1005 caption with debtor's names for 8 years needed on all Rule 2002 notices?</p>	<p>Staff</p>	<p>6/13 - Consumer Subcommittee discussed, deferred further action</p>	
<p><b>Rule 2014</b> Specify relevant connections that must be described</p>	<p>Suggestion 13-BK-C ABI Ethics Task Force</p>	<p>4/13 - Committee discussed, referred to Attorney Conduct Subcommittee 7/13 - Subcommittee considered 9/13 - Committee agenda</p>	
<p><b>Rule 2016</b> Require weekly reports and fee applications by professionals</p>	<p>Suggestion 13-BK-H Dan Dooley</p>	<p>9/13 - Committee agenda</p>	
<p><b>Rule 3002(a)</b> Require secured creditors to file proofs of claim</p>	<p>Suggestion (11-BK-B) Judge A. Benjamin Goldgar</p>	<p>7/11 - Consumer Subcommittee discussed 9/11 - Committee discussed, referred to Consumer Subcommittee 12/11, 2/12 - Subcommittee considered 3/12 - Committee considered, deferred further action, referred to Subcommittee on Business Issues and Chapter 13 Form Plan 7/12 - Subcommittee considered 9/12 - Committee discussed, referred to Form Plan Working Group (See chapter 13 amendments to Rule 2002 etc.)</p>	
<p><b>Rule 3002.1</b> Application of rule when no cure in plan</p>	<p>Suggestion 12-BK-K Laila Gonzalez  Suggestion 13-BK-E Judge Carol Doyle</p>	<p>9/12 - Mortgage Forms Mini-conference 4/13 - Assigned to Consumer and Forms Subcommittees 7/13 - Subcommittee considered 9/13 - Committee agenda</p>	

<p><b>Rule 3002.1</b> Where to file notices when no proof of claim</p>	<p>Suggestion 12-BK-G Judge Thomas Saladino</p>	<p>9/12 - Mortgage Forms Mini-conference</p>	
<p><b>Rule 3007(a)</b> Disposition of objections to claims by negative notice</p>	<p>Suggestion 09-BK-H Judge Margaret Dee McGarrity on behalf of the Bankruptcy Judges Advisory Group  Comment 11-BK-12 Judge Eric L. Frank</p>	<p>1/10 - Consumer Subcommittee considered 4/10 - Committee discussed, referred to Consumer Subcommittee 8/10 - Subcommittee considered 9/10 - Committee discussed, referred to Consumer Subcommittee 12/10 - Subcommittee considered 4/11 - Committee approved publication 6/11 - Standing Committee approved publication 8/11 - Published for comment 3/12 - Consumer Subcommittee considered 3/12 - Committee considered, referred to Chapter 13 Form Plan Working Group 7/12 - Working Group considered 9/12 - Committee considered comment on negative notice, referred to Consumer Subcommittee 11/12 - Subcommittee considered 4/13 - Committee considered 6/13 - Subcommittee considered 9/13 - Committee agenda</p>	

<p><b>Rule 3007(a)</b> Clarify service requirements for objections to claims</p>	<p>Suggestion (09-BK-N) Judge Michael E. Romero on behalf of the Bankruptcy Judges Advisory Group</p>	<p>4/10 - Committee discussed, referred to Consumer Subcommittee 8/10 - Subcommittee considered 9/10 - Committee discussed, referred to Consumer Subcommittee 12/10 - Subcommittee considered 4/11 - Committee approved publication 6/11 - Standing Committee approved publication 8/11 - Published for comment 3/12 - Consumer Subcommittee considered 3/12 - Committee considered, referred to Chapter 13 Form Plan Working Group 7/12 - Working Group considered 9/12 - Committee discussed, referred to Chapter 13 Form Plan Working Group, included in amended Rule 3012 (See negative notice amendment to Rule 3007)</p>	<p>12/1/15</p>
<p><b>Rule 4004(c)(1)</b> Clarification</p>	<p>Committee Proposal</p>	<p>9/11 - Committee discussed, referred to Consumer Subcommittee 12/11 - Subcommittee considered 3/12 - Committee approved 6-12 - Standing Committee approved 9/12 - Judicial Conference approved 4/13 - Supreme Court approved</p>	<p>12/1/13</p>

<p><b>Rule 5005(a)</b> Electronic Signatures</p>	<p>Forms Modernization Project</p>	<p>8/11 - Forms Modernization Project considered 9/11 - Committee discussed 1/12 - Subcommittee on Technology and Cross Border Insolvency considered 3/12 - Committee considered 7/12 - Subcommittee considered 1/12 - Standing Committee discussed 7/12 - Subcommittee considered 9/12 - Committee considered, referred to subcommittee 12/12, 2/13 - Subcommittee considered 4/13 - Committee approved for publication as revised 6/13 - Standing Committee approved for publication as further revised 8/13 - Published for comment</p>	<p>12/1/15</p>
<p><b>Rule 5009(b)</b> Conform rule to amendment to Rule 1007(b)(7)</p>	<p>Committee Proposal</p>	<p>12/10 - Considered by Consumer Subcommittee 4/11 - Committee approved publication 6/11 - Standing Committee approved publication 8/11 - Published for comment 3/12 - Committee approved 6-12 - Standing Committee approved 9/12 - Judicial Conference approved 4/13 - Supreme Court approved</p>	<p>12/1/13</p>

<p><b>Rule 7001(1)</b> Compelling the debtor to deliver the value of property to the trustee</p>	<p>Suggestion 12-BK-D Judge S. Martin Teel, Jr.</p>	<p>3/12 - Committee discussed, referred to the Consumer Subcommittee 6/12 - Subcommittee considered 9/12 - Committee discussed, referred to subcommittee for further consideration 11/12 - Subcommittee considered 4/13 - Committee considered, took no further action</p>	
<p><b>Rules 7004(e), 7012, 9006(f)</b> Provide that the deadline for responding to a summons runs from the date of service, not the date of issuance</p>	<p>Suggestion 11-BK-F Chief Judge Peter W. Bowie</p>	<p>9/11 - Committee discussed, referred to Business Subcommittee 12/11 - Subcommittee considered 3/12 - Committee approved publication of revised amendment to Rule 7004(e) 6/12 - Standing Committee approved publication 8/12 - Rule 7004(e) published for comment 4/13 - Committee considered comments, approved with revised Committee Note 6/13 - Standing Committee approved Rule 7004(e) 9/13 - Judicial Conference agenda</p>	<p>12/1/14</p>
<p><b>Rules 7008, 7054</b> Finding that there is a gap in the procedure for requesting allowance of attorney's fees in adversary proceedings</p>	<p>Charlie Y, Inc., v. Carey B.A.P. 9th Cir. (Mar. 4, 2011)</p>	<p>4/11 - Committee discussed, referred to Consumer and Business Subcommittees 7/11 - Consumer Subcommittee considered 7/11 - Business Subcommittee considered 9/11 - Committee approved publication 1/12 - Standing Committee approved publication as revised 8/12 - Published for comment 4/13 - Committee considered comments, approved 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda</p>	<p>12/1/14</p>



<p><b>Rules 7008, 7012(b), 7016, 9027, 9033(a)</b> Impact of decision in <i>Stern v. Marshall</i>, 131 S. Ct. 2594 (2011)</p>	<p>Committee proposal Suggestion 11-BK-I Judge Eric P. Kimball Suggestion 11-BK-K Judges Black, Goldgar, and Doyle Suggestion 11-BK-L Judge Arthur Gonzalez</p>	<p>9/11 - Committee discussed, referred to Business Subcommittee 3/12 - Subcommittee considered 3/12 - Committee approved publication 6/12 - Standing Committee approved publication 8/12 - Published for comment 2/13 - Subcommittee considered comments 4/13 - Committee approved 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda 9/13 - Status report</p>	<p>12/1/14</p>
<p><b>Rules 7008, 7012</b> Provide for consent to final adjudication by the bankruptcy judge on part of the proceeding</p>	<p>Comment 12-BK-037 National Bankruptcy Conference</p>	<p>2/13 - Business Subcommittee discussed, deferred for future consideration</p>	
<p><b>Rules 7008, 7012</b> Provide for treating Stern issues in pre-answer motions</p>	<p>Comment 12-BK-037 National Bankruptcy Conference</p>	<p>2/13 - Business Subcommittee discussed, deferred for future consideration</p>	

<p><b>New Rules 8001 - 8028</b> Revise Part VIII of the rules to modernize and more closely follow the Appellate Rules</p>	<p>Eric Brunstad Committee proposal</p>	<p>3/08 - Referred to Privacy, Public Access and Appeals Subcommittee 5/08, 8/08 - Subcommittee discussed 10/08 - Committee discussed 3/09 - Considered at open subcommittee meeting 3/09 - Committee discussed 6/09 - Subcommittee discussed comments at open meeting 9/09 - Subcommittee discussed comments at 2<sup>nd</sup> open meeting 10/09 - Report to committee 12/09 - Comments at 2<sup>nd</sup> open meeting incorporated in draft 2/10 - Subcommittee considered 4/10 - Committee received progress report 8/10, 9/10 - Subcommittee calls 9/10 - Report on Committee agenda 12/10, 2/11 - Subcommittee calls 4/11 - Discussed during joint meeting with Appellate Rules Committee 7/11 - Drafting group reviewed and revised the draft 9/11 - Committee discussed 12/11 - Report to Standing Committee 1/12, 3/12 - Subcommittee considered 3/12 - Committee approved publication of new Rules 6/12 - Standing Committee approved publication 8/12 - Published for comment 2/13, 3/13 - Subcommittee considered comments 4/13 - Committee approved as revised (continued below)</p>	<p>12/1/14</p>
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<b>New Rules 8001 - 8028</b> (Continued)		6/13 - Standing Committee approved 9/13 - Judicial Conference agenda	12/1/14
<b>New Rule 8002</b> Permit district court to reopen time to file an appeal for someone who did not receive timely notice of the entry of the judgment, like FRAP 4(a)(6)	Comment 12-BK-033 Judge Christopher M. Klein	3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda	
<b>New Rule 8002</b> Clarify when judgment is entered, like FRAP 4(a)(7)	Comment 12-BK-033 Judge Christopher M. Klein	3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda	
<b>New Rules 8003(c)(1), 8004(c)(1)</b> Discrepancy on who serves notice of appeal and interlocutory appeal	Comment 12-BK-008 National Conference of Bankruptcy Judges Comment 12-BK-036 Clerk (1st Cir. BAP)	3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda	
<b>New Rule 8004</b> Requirement for both a motion for leave to appeal and a notice of appeal	Committee proposal	7/13 - Appeals subcommittee considered 9/13 - Committee agenda	
<b>New Rule 8005</b> Withdrawal of election to have appeal heard by district court	Comment 12-BK-033 Judge Christopher M. Klein	3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda	

<p><b>New Rule 8006</b> Provide for the bankruptcy court to comment on the suitability for direct appeal when joint certification by all appellants and appellees</p>	<p>Comment 12-BK-033 Judge Christopher M. Klein</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda</p>	
<p><b>New Rule 8008, Rules 9023, 9024</b> Indicative rulings</p>	<p>Committee proposal</p>	<p>8/08 - Subcommittee on Privacy, Public Access, and Appeals discussed 10/08 - Committee tentatively approved publication of new Rule 8007.1 and Rule 9024 amendment 3/09 - Rules 8007.1 and 9024 assigned to the Bull Pen 3/12 - Committee approved publication of revised Rules 9023 and 9024 amendments 6/12 - Standing Committee approved publication 8/12 - Published for comment 4/13 - Committee approved 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda</p>	<p>12/1/14</p>
<p><b>New Rule 8009</b> Allow the BAP or district court to deem the record of the proceeding in the bankruptcy court to be the record on appeal</p>	<p>Comment 12-BK-005 Judge Robert J. Kressel Comment 12-BK-015 Judge Barry S. Schermer Comment 12-BK-040 Bankruptcy Clerks Advisory Group</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration 7/13 - Appeals subcommittee considered 9/13 - Committee agenda</p>	

<p><b>New Rule 8010(b)(1)</b> Transmission of the record</p>	<p>Comment 12-BK-008 National Conference of Bankruptcy Judges</p> <p>Comment BK-034 Oregon State Bar Debtor-Creditor Section</p> <p>Comment 12-BK-040 Bankruptcy Clerks Advisory Group</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration</p> <p>7/13 - Appeals subcommittee considered</p> <p>9/13 - Committee agenda</p>	
<p><b>New Rule 8010(b)(4)</b> Appellee may provide copies</p>	<p>Comment 12-BK-014 Judge Dennis Montali</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration</p> <p>7/13 - Appeals subcommittee considered</p> <p>9/13 - Committee agenda</p>	
<p><b>New Rule 8011</b> Filing rule should be the same for briefs and appendices, when received</p>	<p>Comment 12-BK-005 Judge Robert J. Kressel</p> <p>Comment 12-BK-026 Judge S. Martin Teel, Jr.</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration</p> <p>7/13 - Appeals subcommittee considered</p> <p>9/13 - Committee agenda</p>	
<p><b>New Rule 8020</b> Reference to "order" includes local rules</p>	<p>Comment 12-BK-033 Judge Christopher M. Klein</p>	<p>3/13 - Appeals subcommittee considered, deferred for future consideration</p>	
<p><b>New Rule 8023</b> Include Rule 7041 and 9019 safeguards for dismissal of appeals</p>	<p>Comment 12-BK-008 National Conference of Bankruptcy Judges</p>	<p>3/13 - Appeals subcommittee considered</p> <p>7/13 - Appeals subcommittee considered, deferred for future consideration</p>	
<p><b>New Rule 8024</b> Specify when jurisdiction reverts in the bankruptcy court after an appeal</p>	<p>Comment 12-BK-008 National Conference of Bankruptcy Judges</p>	<p>3/13 - Appeals subcommittee considered</p> <p>7/13 - Appeals subcommittee considered, deferred for future consideration</p>	

<b>8000 Rules</b> Abolish BAPs, assign appeals to courts with low caseloads	Judge William G. Young	4/13 - Committee discussed	
<b>Rule 9006(d)</b> Delete as superfluous, not properly located in the Rules, and may create confusion  <b>Rules 9013, 9014</b>	Suggestion 10-BK-D Judge Raymond T. Lyons  Committee proposal	8/10 - Considered by the Subcommittee on Business Issues 9/10 - Committee approved amendments to Rules 9006, 9013, 9014 6/11 - Standing Committee approved publication 8/11 - Published for comment 3/12 - Committee approved 6-12 - Standing Committee approved 9/12 - Judicial Conference approved 4/13 - Supreme Court approved	12/1/13
<b>Rule 9006(f)</b> Conform to amendment to civil Rule 6(d)	Judge Arthur Harris	4/13 - Committee approved publication 6/13 - Standing Committee approved publication 8/13 - Published for comment	12/1/15
<b>Rule 9006(f)</b> Eliminate the 3-day extension if electronic service	Intercommittee - CM/ECF Subcommittee	9/13 - Committee agenda	
<b>Rules 9027, 9033</b> Service of notice by mail	Comment 12-BK-040 Bankruptcy Clerks Advisory Group	2/13 - Business subcommittee discussed, deferred for future consideration	
<b>Rule 9033</b> The clerk should serve, not mail, proposed findings of fact and conclusions of law	Comment 12-BK-008 National Conference of Bankruptcy Judges	2/13 - Business subcommittee discussed, deferred for future consideration	

<b>New Rule</b> Treatment of <i>Stern</i> issues in bankruptcy appeals	Suggestion 12-BK-H Professor Alan Resnick	7/12 - Subcommittee on Privacy, Public Access and Appeals considered 9/12 - Committee considered, deferred for future consideration	
<b>Official Form 1</b> Add checkboxes for 11 U.S.C. § 1116(1) documents	Suggestion 13-BK-B Judges Eric L. Frank and Bruce I. Fox	4/13 - Committee discussed, referred to Forms Subcommittee 7/13 - Subcommittee considered 9/13 - Committee agenda	
<b>Official Form 3B</b> Exclude non-cash government assistance	Suggestion 12-BK-A Judge Michael J. Kaplan	3/12 - Committee considered, incorporated in Forms Modernization version of the form	12/13

<p><b>Official Form 6C</b> Extent of claimed exemption, <i>Schwab v. Reilly</i>, 130 S. Ct. 2652 (2010),</p>	<p>Judge Eugene Wedoff</p>	<p>7/09 - Consumer Subcommittee considered 10/09 - Committee discussed 4/10 - Committee discussed 6/10 - Supreme Court decision 8/10 - Consumer and Forms Subcommittees considered 9/10 - Committee considered, referred to Consumer and Forms Subcommittees 10/10 - Subcommittees considered 4/11 - Committee approved 4-column version for publication 6/11 - Standing Committee approved publication 8/11 - Published for comment 2/12 - Consumer and Forms Subcommittees considered comments 3/12 - Committee considered, withdrew the amendment without expressing an opinion on the emerging practice of writing in <i>Schwab</i> language on the current version of the form, referred to Forms Modernization 7/12 - Consumer and Forms Subcommittees considered 9/12 - Committee considered, included in new Form 106D 1/13 - Standing Committee suggested revising draft form 2/13 - Joint subcommittees considered 4/13 - Committee approved publication of revised form (see Forms Modernization)</p>	
<p><b>Forms 6I, 6J</b> Separate debtors' business income and expenses from personal income and expenses</p>	<p>Suggestion 12-BK-F Robert B. Katz, Esq.</p>	<p>Referred to Forms Modernization Project</p>	



<b>Official Form 6 - Summary</b> Conform to Amendments to Forms 6I and 6J		6/13 - Standing Committee approved 9/13 - Judicial Conference agenda	12/1/13
<b>Official Form 7</b> Add debtor's age	Suggestion 13-BK-A David W. Ostrander	4/13 - Committee discussed, referred to Forms and Privacy Subcommittees 7/13 - Subcommittees considered 9/13 - Committee agenda	
<b>Official Forms 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, 9I</b> Encourage creditors to obtain proof of claim form courts' website	Suggestion 12-BK-B Matthew T. Loughney for Bankruptcy Noticing Working Group	3/12 - Committee discussed, referred to Forms Modernization	
<b>Official Forms 9F, 9F(Alt.)</b> Debts owed to a domestic governmental unit that are not dischargeable	Suggestion 13-BK-I Judge Stuart Bernstein	9/13 - Committee agenda	
<b>Official Form 10</b> Provide a space for designating the amount of a general unsecured claim	Suggestion 11-BK-D Sabrina L. McKinney	9/11 - Committee discussed, referred to Forms and Consumer Subcommittees 1/12 - Subcommittees considered 3/12 - Committee considered, referred to Forms Modernization	
<b>Official Form 10</b> Include section for § 503(b)(9) claims	Comment on Forms Modernization Form Craig Johnson Garden City Group, claims agents		

<p><b>Official Forms 10(Attach. A) 10(Suppl. 1) 10(Suppl. 2)</b> Input on new mortgage forms, desirability of including a complete loan history</p> <p><b>Rule 9009</b> Specify how Official Forms may be modified</p>	<p>Committee proposal</p>	<p>7/11 - Consumer and Forms subcommittees discussed 9/11 - Committee discussed, referred to Consumer and Forms Subcommittees 1/12 - Subcommittees considered 3/12 - Committee considered 7/12 - Consumer and Forms Subcommittees discussed 9/12 - Mortgage Forms Mini-Conference 9/12 - Committee discussed 12/12 - Consumer and Forms Subcommittees considered (see Form Plan Working Group for Rule 9009) 4/13 - Committee discussed 8/13 - Mortgage Loan History Working Group formed 9/13 - Status report</p>	
<p><b>Official Form 10(Attach. A)</b> Treatment of escrow shortage</p>	<p>Suggestion 12-BK-C Judge Barry S. Schermer</p>	<p>3/12 - Committee discussed, referred to Mortgage Forms Mini-Conference 7/12 - Consumer and Forms Subcommittees considered 9/12 - Mortgage Forms Mini-Conference 9/12 - Committee discussed 12/12 - Consumer and Forms Subcommittees considered 4/13 - Committee discussed 8/13 - Mortgage Loan History Working Group formed 9/13 - Status report</p>	
<p><b>Official Form 14</b> Add checkbox for other parties</p>	<p>Suggestion 13-BK-D David Tilem</p>	<p>7/13 - Business Subcommittee considered 9/13 - Committee agenda</p>	

<b>Official Forms 17A, 17B (new), 17C (new)</b> Forms for new Part VIII rules	Committee Proposal	3/13 - Privacy, Public Access and Appeals Subcommittee considered 4/13 - Committee approved publication 6/13 - Standing Committee approved publication 8/13 - Published for comment	
<b>Official Form 22A</b> Technical amendments to § 109(h)	Committee Proposal	3/12 - Committee discussed, oral reports at future meetings 9/12 - Committee discussed 4/13 - Committee considered, no further reports unless a split of authority among courts develops	
<b>Official Form 22A-1Supp</b> Create a separate form for qualified military service exclusion	Unpublished 2.15.13 comment Carl Barnes, Best Case Software	3/13 - Forms Modernization considered 4/13 - Committee approved publication of new Form 22A-1Supp 6/13 - Standing Committee approved publication 8/13 - Published for comment	12/1/14
<b>Official Forms 22A, 22C</b> Deducting telecommunication expenses by debtor who is not self-employed	William J. Neild Comment 09-BK-032	4/10 - Committee discussed, referred to Subcommittee on Consumer Issues 8/10 - Subcommittee considered 9/10 - Committee discussed, referred to Forms Subcommittee 2/11 - Subcommittee considered 4/11 - Committee approved, referred to Forms Subcommittee for final review 2/11 - Subcommittee reviewed 6/11 - Standing Committee approved publication 8/11 - Published for comment 2/12 - Subcommittee on Consumer Issues considered comments 3/12 - Committee approved, incorporated in the Forms Modernization version of Forms 22A and 22C	

<b>Official Forms 22A, 22C</b> Change in IRS allocation of internet services in National Standards and Local Standards	Mark Redmiles	9/11 - Committee discussed, referred to Subcommittee on Consumer Issues 12/11, 2/12 - Subcommittee considered 3/12 - Committee considered, incorporated in the Forms Modernization versions of Forms 22A and 22C	
<b>Official Forms 22A, 22C</b> Allow below-median income debtors to file shortened versions of the forms	Suggestion 11-BK-C Wendell J. Sherk	9/11 - Committee considered, referred to Forms Modernization Project 3/12 - Included in the Forms Modernization versions of Forms 22A and 22C	
<b>Official Form 22C</b> Calculation of projected disposable income under § 1325(b)(1), <i>Hamilton v. Lanning</i> , 130 S. Ct. 2464 (2010).	Committee Proposal	4/10 - Committee discussed 6/10 - Supreme Court decision 8/10 - Consumer and Forms Subcommittees considered 9/10 - Committee approved, referred to subcommittees for final review 2/11- Subcommittees reviewed 6/11 - Standing Committee approved publication 8/11 - Published for comment 2/12 - Consumer and Forms Subcommittees considered comments 3/12 - Committee approved, incorporated in the Forms Modernization version of 22C 8/12 - Published for comment 4/13 - Committee eliminated 12-month limitation, approved republication, (see Official Forms 22A, 22B, 22C, Forms Modernization, below)	12/1/14

<b>Official Form 23</b> Conform to amendment to Rule 1007(b)(7)	Committee proposal	9/10 - Committee discussed, referred to Forms Subcommittee for final review 2/11- Subcommittee reviewed 4/11 - Held in the Bullpen 4/13 - Committee removed from Bullpen, approved 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda	12/1/13
<b>Official Form 27</b> Conform to Amendments to Forms 6I and 6J	Staff	6/13 - Standing Committee approved 9/13 - Judicial Conference agenda	12/1/13

<p><b>Official Form 113</b> Form chapter 13 plan</p>	<p>Suggestion 10-BK-G Judge Margaret Mahoney</p> <p>Comment 10-BK-M States' Association of Bankruptcy Attorneys (SABA)</p>	<p>2/11 - Consumer and Forms Subcommittees discussed 4/11 - Assigned to Forms Subcommittee, with direction to present a proposal for advancing the recommendation at the September meeting 6/11 - Working group appointed 6/11, 8/11 - Working group considered 8/11 - Judge Wedoff requested information on local model chapter 13 plans 9/11 - Committee discussed 1/12, 2/12 - Working group considered 3/12 - Committee discussed 7/12, 8/12 - Working Group considered 9/12 - Committee considered, referred to Working Group for further consideration 11/12, 1/13, 2/13 - Working Group considered 1/13 - Form Plan Mini-Conference considered 4/13 - Consumer and Forms Subcommittees considered 4/13 - Committee approved publication of revised form 6/13 - Standing Committee approved publication 8/13 - Published for comment 9/13 - Status report</p>	<p>12/1/15</p>
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<p><b>Official Forms</b> Forms Modernization Project, alternatives to paper-based format for forms; renumber Official Forms</p>	<p>Judge James D. Walker, Jr. Comment 06-BK-011 Judge Marvin Isgur Patricia Ketchum</p>	<p>9/06 - Committee will coordinate a study with the Administrative Office 8/07 - Discussion of how to organize the study 9/07 - Committee discussed and authorized chair to create group 1/08 - Organizational meeting for Forms Modernization Project 2008/2009/2010/2011/2012 - Forms Modernization Project continues work, meetings in January, June 9/10 - Statement of Financial Affairs drafting session 9/10 - Progress report on agenda 10/10 - Form 22 drafting session 4/11 - Progress report 9/11 - Committee approves publishing new individual financial forms 3/12 - Committee approved publication of revised Forms 3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1, 22C-2 6/12 - Standing Committee approved publication 8/12 - Published for comment 9/12 - Committee considered remaining individual forms 8/12 to 4/13 - Drafting calls for non-individual forms 1/13 - Preliminary review by Standing Committee of remaining individual forms (See subtopics below)</p>	<p>12/1/15  (see below)</p>
<p><b>Official Forms 106A-106H</b> Reletter to more closely follow existing forms</p>	<p>Judge Harris Ms. Michaux</p>	<p>4/13 - Committee approved renumbering new schedules as 106A/B, 106E/F, etc (see Forms Modernization, individual forms)</p>	<p>12/1/15</p>

<b>Official Forms 3A, 3B</b> Forms Modernization		(See Forms Modernization Project above) 8/12 - Published for comment 3/13 - Working Group considered comments 4/13 - Committee approved as revised 6/13 - Standing Committee approved 9/13 - Judicial Conference agenda	12/1/13
<b>Official Forms 22A, 22B, 22C</b> Forms Modernization		(See Forms Modernization Project above) 8/12 - Published for comment 3/13 - Working Group considered comments 4/13 - Committee approved republication as revised, including Form 22A-1Supp. 6/13 - Standing Committee approved republication 8/13 - Republished for comment	12/1/14
<b>Official Forms (individual forms)</b> Forms Modernization		(See Forms Modernization Project above) 1/13 - Preliminary review by Standing Committee 3/13 - Working Group discussed 4/13 - Committee approved publication of Forms 101, 101A, 101B, 104, 105, 106Sum, 106A/B, 106C, 106D, 106E/F, 106G, 106H, 106Dec, 107, 112, 119, 121, 318, 423, and 427, as revised 6/13 - Standing Committee approved publication 8/13 - Published for comment	12/1/15



<b>Official Forms (non-individual forms)</b> Forms Modernization		(See above) 8/12 to 8/13 - Drafting and review calls for non-individual forms 3/13 - Working Group discussed 9/13 - Preliminary review of Forms 201, 202, 204, 205, 206Sum, 206A/B, 206D, 206E/F, 206G, 206H, 207, 410	12/1/15
<b>Official Form 401</b> Separate chapter 15 petition	Forms Modernization Suggestion 09-BK-G Kathleen Crosser Suggestion 07-BK-F Judge Laura Isicoff	7/13 - Forms Modernization considered 9/13 - Committee agenda	12/1/15
<b>Director's Forms 254, 255, 256, 257 (new), Rule 9016</b> Impact of proposed amendments to Civil Rule 45	Committee proposal	4/11 - Committee discussed, deferred until after civil rules are published 8/11 - Rules 37 and 45 published 9/11 - Bull Pen 12/11 - Subcommittee on Business Issues considered 3/12 - Committee considered, took no further action, Forms 254, 255, 256 to be updated before 9/13 meeting 7/13 - Subcommittee on Forms reviewed revised Forms 254, 255, and 256, and new Form 257 8/13 - Revised Forms posted 9/13 - Committee agenda	12/1/13

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# TABS 20-22

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Future Meetings  
New Business  
Adjournment

Items 20 to 22 will be oral reports.

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