

ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of October 1, 2015
Washington D.C.

The following members attended the meeting:

Circuit Judge Sandra Segal Ikuta, Chair
Circuit Judge Adalberto Jordan
District Judge Jean Hamilton
District Judge Robert James Jonker
District Judge Amul R. Thapar
Bankruptcy Judge Stuart M. Bernstein
Bankruptcy Judge Dennis Dow
Bankruptcy Judge A. Benjamin Goldgar
Bankruptcy Judge Arthur I. Harris
Diana Erbsen, Esquire
Jeffrey Hartley, Esquire
Richardo I. Kilpatrick, Esquire
Jill Michaux, Esquire
Thomas Moers Mayer, Esquire
Professor Edward R. Morrison

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter
Professor Michelle Harner, assistant reporter
Circuit Judge Jeffrey S. Sutton, Chair of the Committee on Rules of Practice and
Procedure (Standing Committee)
Professor Daniel Coquillette, reporter to the Standing Committee
Rebecca Womeldorf, Secretary, Standing Committee and Rules Committee
Officer
Bankruptcy Judge Roger Efremsky
Bankruptcy Judge Martin Isgur
Bankruptcy Judge Eugene R. Wedoff
Roy T. Englert, Jr., Esq., liaison from the Standing Committee
Molly Johnson, Senior Research Associate, Federal Judicial Center
Ramona D. Elliot, Esq., Deputy Director/General Counsel, Executive Office for
U.S. Trustees
James J. Waldron, Clerk, U.S. Bankruptcy Court for the District of New Jersey
Bridget Healy, Esq., Administrative Office
Scott Myers, Esq., Administrative Office
James Wannamaker, Esq., consultant to the Committee
Derek Webb, Administrative Office
Michael T. Bates, Lindquist & Vennum, LLP, Minneapolis, Minnesota
John Crane, John M. Crane, P.C., Port Chester, New York
Sims Crawford, Chapter 13 Trustee, Northern District of Alabama

Marcy Ford, Trott Law Firm, Farmington Hills, Michigan
Michael McCormick, McCalla Rayner, LLC, Roswell, Georgia
Raymond J. Obuchowski, National Association of Bankruptcy Trustees
Lance Olson, RCO Legal, Bellevue, Washington
Jon M. Waage, Chapter 13 Trustee, Middle District of Florida
Nancy Whaley, National Association of Chapter 13 Trustees
Daniel A. West, SouthLaw, P.C., St. Louis, Missouri

Discussion Agenda

1. Introductions.

Judge Sandra Ikuta started the meeting at 9:00 am. She introduced assistant reporter Professor Michelle Harner, who was appointed in July 2015. Professor Harner spoke briefly. Judge Ikuta noted the re-appointments to the Committee, and thanked Judge Arthur Harris for his work in reviewing the forms. She completed her remarks by welcoming Judge Eugene Wedoff and Jon Waage, who both served as consultants for the Committee's work on the chapter 13 plan form. The members and visitors introduced themselves.

2. Approval of minutes of spring 2015 meeting.

The minutes were approved with minor edits.

3. Oral reports on meetings of other committees.

(A) May 28-29, 2015 meeting of the Committee on Rules of Practice and Procedure.

All of the bankruptcy action items were approved, including the chapter 15 items, the 3-day rule change, the various issues related to mortgage reporting, and the final approval of the modernized forms. The modernized forms were approved by the Judicial Conference on September 17, 2015, and are set to go into effect on December 1, 2015. Two rule amendments were published in August 2015: Rules 1006(b) and 1001.

(B) June 11-12, 2015 meeting of the Committee on the Administration of the Bankruptcy System (Bankruptcy Committee).

The Bankruptcy Committee concurred in a recommendation from the Committee on Court Administration and Case Management (CACM) to amend the preamble of the miscellaneous fee schedule regarding Bankruptcy Appellate Panel services. Also, the Bankruptcy Committee approved a request for the Federal Judicial Center (FJC) to study the impact of Chapter 9 cases on the bankruptcy system. Finally, the Bankruptcy Committee

recommended that the Administrative Office (AO) develop procedures regarding interpretation services.

4. Report by the Subcommittee on Consumer Issues.

- (A) Suggestion 14-BK-B from CACM to amend various rules regarding redaction of private information in closed cases.

Judge Harris reported that this was an information item. Jim Waldron surveyed clerks' offices to determine how these matters are handled. The results showed that courts are divided as to notice to affected parties. Most courts do not require the reopening of a closed case to request a redaction. Since submitting the suggestion to the Committee, CACM made a separate request to the Judicial Conference for a specific fee for redaction requests, thus permitting redactions without requiring case reopening. As part of the request to the Judicial Conference, CACM included language regarding the potential impact and notice to affected parties. CACM's recommendation was approved by the Judicial Conference.

Judge Harris noted that the subcommittee has a small group working on the issue; they will consider privacy issues, appropriate notice, and developing a simple procedure for courts and parties. They plan to have a draft amendment ready for consideration for the spring 2016 meeting.

- (B) Suggestion 15-BK-E to amend Rule 4003(c) to change the burden of proof where state law provides the rule of decision.

Judge Harris explained that the suggestion is to amend Rule 4003(c) to accommodate the decision in *Raleigh v. Illinois Department of Revenue*, 530 U.S. 15 (2000). The primary issue is the burden of proof in litigation involving a debtor's entitlement to a claimed exemption under section 522 of the Bankruptcy Code. Specifically, the suggestion asserts that the language of Bankruptcy Rule 4003(c), which places the burden of proof on the party objecting to the claimed exemption, alters the substantive rights of the parties in violation of the Rules Enabling Act. Judge Harris advised that the issue would remain under consideration by the subcommittee.

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

- (A) Discussion regarding proposed chapter 13 plan form (Official Form 113), and related proposed amendments to certain bankruptcy rules.

Judge Dennis Dow explained the subcommittee's process, discussion, and final recommendation regarding the chapter 13 plan and related rules. He reminded the group that the plan form and rules were published twice; after the second publication, the Committee received a compromise proposal from a group of bankruptcy judges and others that suggested permitting districts to opt out of using the national plan form if certain conditions were met. The subcommittees consulted with Judge Wedoff and Mr. Waage, as a former Committee member and Chapter 13 trustee, respectively, regarding the compromise proposal and related matters.

The subcommittees reviewed the comments on the published form and rules (these comments were included in the spring 2015 Committee meeting agenda materials), evaluated the compromise proposal, and considered the impact on the related rule amendments. The subcommittees also sought input from Judge Marvin Isgur and Judge Roger Efremsky as representatives of the group that submitted the compromise proposal.

The subcommittees' recommendation included revisions to Rule 3015 that would permit a district to opt out of using a national plan form and impose specific requirements for opting out. The subcommittees included in the agenda materials a proposed amended version of 3015 and a proposed new Rule 3015.1, along with proposed changes to the form itself, including language regarding the location of non-standard provisions to address the problem at issue in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (2010).

Judge Dow advised that subcommittee members would continue to share the revisions with the bankruptcy community in an effort to ensure that all interested parties are aware of the revised plan and rules. He reached out to the National Association of Chapter 13 Trustees (NACTT), the National Conference of Bankruptcy Judges (NCBJ), the American Bankruptcy Institute (ABI), the National Bankruptcy Conference (NBC), and the National Association of Consumer Bankruptcy Attorneys (NACBA). In doing this, he also asked for recommendations from these groups as to others who could be notified.

Judge Isgur and Judge Efremsky noted their individual support for the revised form and rules. They also indicated that they had surveyed members of the group that submitted the compromise proposal, and that such survey showed a lack of controversy over the revised form and rules. In addition, they reached out to the NACBA and the NACTT in both submitting the compromise proposal earlier in the year and in consideration of the revised plan form and rules. Judge Dow advised that while the majority of the subcommittee supported the recommendation to approve the plan form and related rules, there were a few members who objected.

Professor Gibson spoke briefly about the issue of republication. She stated that if a decision were made to republish, it would likely be to publish the revised Rule 3015 and new Rule 3015.1 rather than the plan form and other related rules. The subcommittee recommended postponing a decision on republication until the spring 2016 meeting. Judge Dow advised that the Rules Committee Support Office was contacted by two members of Congress, who expressed concern about the publication process for any revised plan or rules.

The specific recommendations of the subcommittee for approval were: (1) to approve the final version of Official Form 113 and the related rules other than Rules 3015 and 3015.1, with the understanding that the form and rules would not go forward to the Standing Committee at this time, and (2) to defer the final decision regarding republication until the spring 2016 meeting. Judge Ikuta advised that nothing would prevent the Committee from revisiting the plan form or related rules at a later time. She noted the Committee's consensus that the proposed amendments to the rules and the national plan form were a package, and neither would go forward without the other.

A motion was made to approve Official Form 113, Rules 2002, 3002, 3007, 3012, 4003, 5009, 7001, and 9009, pending submission to the Standing Committee. It passed with one opposition. Proposed amended Rule 3007 was referred to the Business Subcommittee for consideration of an issue with the language in the version of the rule in the agenda materials. Amended Rule 3015 and new rule 3015.1 will continue to be considered by the Forms Subcommittee for a recommendation at the spring 2016 meeting.

- (B) Report concerning the development of forms for subsections (f) and (g) of Rule 3002.1 - Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence, and additional amendments to the rule.

Professor Gibson explained that these issues relate to the mortgage form and rule amendments that went into effect in 2011. The issues were raised as part of a 2012 mini-conference on mortgage issues.

First, there are two proposed new Director's Forms: Form 4100N, Notice of Final Cure Payment (to implement Rule 3002.1 (f)); and Form 4100R, Response to Notice of Final Cure Payment (to implement Rule 3002.1(g)). The forms provide a vehicle for reporting information regarding the cure of arrearages, and were reviewed by the NACTT. Both proposed forms were included in the agenda materials. Currently courts have various requirements for reporting this information, and uniformity would be helpful, although the subcommittee determined that the forms did not need to be official forms. As these forms are issued by the Director of the Administrative Office and their use is not mandatory, approval of the Standing Committee and the Judicial Conference is not necessary, and the forms could be issued on December 1, 2015 along with other forms scheduled to go into effect this year. On motion, the Committee recommended that the Administrative Office issue the forms effective December 1, 2015.

Second was a proposed amendment to Rule 3002.1(b), the section of the rule that requires notice of post-petition changes to a mortgage payment. Rule 3002.1(e) provides a procedure for challenging a claimed fee, expense, or charge after the servicer gives notice of it under subdivision (c), but the rule does not provide a similar procedure for payment changes that are reported under subdivision (b). The proposed amendment would suspend the change in payment from going into effect if the debtor or trustee challenges the change within 21 days after the notice is served. If approved, it would be published in August 2016, along with a prior amendment to the same subsection that the Committee approved for publication at the fall 2014 meeting. That amendment regarding home equity lines of credit was held in abeyance so that it could be submitted with any additional amendments to the rule that the Committee decided to propose. Issues were raised with shifting the burden of persuasion to the objecting party and with limiting objections to the debtor or the trustee. The group discussed whether other parties in interest have standing to object without a change in the proposed language.

A motion was made to approve the version of the amended rule in the agenda materials with the clarification that parties in interest (in addition to the debtor and trustee) may object, and the motion passed. The amendment will go forward for publication and the outstanding issues can be considered, if needed, following the publication period.

The final issue was an amendment to Official Form 410S2 regarding notice of post-petition fees and charges. The proposed amendment deletes an instruction to Form 410S2 not to report fees and charges already approved by the court and adds an instruction that requires the creditor to indicate if a fee has previously been approved by the court to avoid double-payments. The recommendation was to seek approval without publication as a conforming amendment. The motion to approve the recommendation was approved.

6. Report by the Subcommittee on Forms.

- (A) Recommendation to request that the Judicial Conference delegate to the Advisory Committee the authority to make non-substantive, technical, conforming changes to Official Bankruptcy Forms as needed.

The Forms Subcommittee recommended that the Committee approve a request to the Judicial Conference to delegate authority to the Committee to make non-substantive, technical, and conforming changes to the Official Forms as needed. The types of changes include: typos and erroneous cross-references, amendments to conform to a change in the law, a change in fee amounts that appear on the forms, or a technical change to accommodate a requirement of the Next Generation of CM/ECF (Next Gen). Scott Myers provided several examples of these changes, including proofreading edits. Judge Sutton suggested that a process be developed to provide notice to the Judicial Conference and the Standing Committee. Judge Ikuta suggested that the subcommittee's recommendation be changed to permit the Committee to implement these types of changes immediately, with retroactive notice and request for approval to the Standing Committee and Judicial Conference. A motion was made to approve the amended recommendation, and the motion was approved.

- (B) Report regarding suggestion for Notice of Change of Address Form (Suggestion 15-BK-D) submitted by Russell C. Simon, Chapter 13 Standing Trustee, on behalf of National Association of Chapter 13 Trustees.

The suggestion, from a subcommittee of the NACTT, was to create a form to provide notice of changes of address. Professor Harner reported that there are several options for implementing the suggestion, including a new Official Form, a new Director's Form, an amendment of Form 410, or an amendment to the instructions for Form 410. Samples of these options were included with the agenda materials. The subcommittee determined that it did not have enough information or data to make a decision as to how to best approach this issue, and it instructed the assistant reporter to conduct a survey of courts to determine how the matter is currently handled along with an analysis of any technological issues with implementing a new form or method of indicating a change of address. Nancy Whaley (NACTT) stated that a form would be helpful for chapter 13 cases as chapter 13 trustees are under pressure about the amount of money contributed to the registrars of courts, and that correct changes of address would likely help.

7. Report by the Subcommittee on Business Issues.

- (A) Recommendation regarding *Stern* amendments to Rules 7008, 7012, 7016, 9027, 9033, previously approved by the Judicial Conference in September 2013, but withdrawn from Supreme Court consideration pending decisions in *Executive Benefits Insurance Agency v. Arkison*, 134 S. Ct. 2165 (2014) and *Wellness International Network, Ltd. v. Sharif*, 135 S. Ct. 1932 (2015); recommendation regarding *Stern*-related Suggestions 11BK-K and 15-BK-F.

The rule amendments were previously approved by the Committee but were withdrawn from consideration by the Supreme Court following the Supreme Court's grant of certiorari in *Executive Benefits Ins. Agency v. Arkison*, 134 S.Ct. 2165 (2014). Later the Court held in *Wellness International Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) that parties could consent to a bankruptcy court's adjudication of proceedings that would otherwise be outside the scope of its constitutional authority. The subcommittee considered whether the original proposed rule amendments should be resubmitted or if any amendments were required based on the Court's decisions. The rule amendments, which were included in the agenda book, were published for public comment in August 2012. They were given final approval by the Standing Committee in June 2013 and by the Judicial Conference in September 2013.

After deliberations, the subcommittee recommended that the Committee ask that the Judicial Conference resubmit the original amended rules to the Supreme Court. In making its recommendation, the subcommittee considered three possible approaches for amending the Bankruptcy Rules to authorize bankruptcy courts, with the parties' consent, to adjudicate proceedings that would otherwise require Article III adjudication: (1) the pending amendments; (2) the magistrate judge model; and (3) the Seventh Amendment model. The subcommittee determined that the alternative models had practical issues as well as possible concerns regarding knowing and voluntary waivers.

A motion to approve the subcommittee's recommendation to request that the Judicial Conference resubmit the amended rules to the Supreme Court was approved. Judge Sutton stated that he would give consideration as to the best process for the approval of the amended rules.

- (B) Suggestion regarding rule amendment for district court treatment of bankruptcy court judgment as proposed findings and conclusions (Suggestion 12-BK-H).

In response to the suggestion that proposed a rule amendment to address the situation in which a district judge treats a judgment or order entered by a bankruptcy judge as proposed findings of fact and conclusions of law, the subcommittee recommended amendments to the title of Rule 9033 and subsection (a) of the rule. The subcommittee concluded that *Arkison* provides legal support for the validity of the approach contained in the suggestion. After the agenda materials were published, a Committee member submitted a suggestion to change the amendment slightly to incorporate references to the other sections of the rule. The group discussed the suggested amendments, and several edits and other revisions were proposed. The Committee decided to return the issue to the subcommittee for further discussion.

- (C) Report on work plan for bankruptcy rules noticing project.

The Advisory Committee has received several comments that relate to noticing issues in bankruptcy cases. Professor Harner proposed a work plan for considering general notice issues, and the specific suggestions related to noticing, including Suggestions 12-BK-M, 12-BK-B, 15-BK-H, and Comment BK-2014-0001-0062.

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

- (A) Recommendation concerning pending amendments to the Federal Rules of Appellate Procedure (FRAP) and whether to publish similar amendments to the Federal Rules of Bankruptcy Procedure.

The recently revised bankruptcy appellate rules (the Part VIII Rules), are modeled on many FRAP provisions. Because the Part VIII rules track FRAP wording rather than incorporate FRAP by reference, the pending FRAP amendments will not automatically apply to bankruptcy appeals in district courts and bankruptcy appellate panels.

The prospect of changes to FRAP required the subcommittee to determine which of the FRAP provisions proposed for amendment have parallels in the Part VIII rules and whether those bankruptcy rules should be similarly amended. One of the main issues considered by the subcommittee was the change in the length limit rules in FRAP. The subcommittee will continue to consider these issues and make any suggested amendments at the spring 2016 meeting. Professor Gibson reminded the group that any changes to the bankruptcy rules would go into effect in 2018.

- 9. Report by the Subcommittee on Technology and Cross Border Insolvency.

- (A) Proposed amendment to Rule 5005(a)(2) to address proposed amendments to Civil Rule 5(d).

Professor Gibson reported that at the spring 2015 meeting the Committee voted to propose for publication an amendment to Rule 5005(a)(2) that would conform to the proposed amendment to Civil Rule 5(d). Because the language of the proposed amendment to Civil Rule 5(d) was still under discussion at that time, the Committee authorized the chair and the reporter to participate in inter-committee negotiations over the language of the proposed Rule 5(d) amendment and to incorporate into the proposed amendment to Rule 5005(a)(2) language that was acceptable to the advisory committees. The Civil Rules Committee subsequently decided not to seek publication of amendments to Rule 5 in order to give the other advisory committees more time to consider any similar amendments they want to propose. The main concern raised by the advisory committees was the impact on pro se filers of a change in Civil Rule 5.

The proposed amendments to Civil Rule 5, as well as a possible amendment to Criminal Rule 49, are still under consideration. The subcommittee discussed how any amendment to the Civil Rule would impact Bankruptcy Rule 5005. The potential versions of Civil Rule 5 were included in the agenda materials. The subcommittee preferred the more recent version of the Civil Rule 5 amendment. No concerns were raised with regard to the specific amendments being considered by the Civil Rules Committee.

In addition to the filing amendments, the Civil Rules Committee is considering an amendment to permit notice via a court's electronic filing system. The Criminal Rules Committee is considering a similar amendment to Criminal Rule 49. The proposed amendment to Rule 5(b)(2)(E) would eliminate the consent requirement for the use of electronic service of documents filed after the original complaint, and the proposed versions of the amendments were included in the agenda materials. Members of the subcommittee expressed a preference for the second version of the Civil Rule amendment, which would eliminate the consent requirement only for service through the CM/ECF system.

A final issue is to allow the Notice of Electronic Filing (NEF) to take the place of a certificate of service. This was originally proposed by CACM and is under consideration by the Civil Rules Committee. The proposed Civil Rule amendment to Civil Rule 5(d), if approved, would become applicable in adversary proceedings pursuant to Rule 7005. Rule 9014, however, does not incorporate Rule 5(d). No concerns were raised by the Committee in its prior consideration of the proposed amendment.

Judge Sutton recommended that the Civil, Criminal, and Bankruptcy Committee reporters meet to develop a consensus recommendation for the Standing Committee.

10. Report by the Subcommittee on Attorney Conduct and Health Care.

- (A) Recommendation concerning the subcommittee's consideration of Suggestion 13-BK-C by the American Bankruptcy Institute's Task Force on National Ethics Standards to amend Rule 2014 (Employment of Professional Persons).

The subcommittee determined to take no further action on this suggestion to amend the requirement that an application to hire a professional list all of the professional's connections with specified persons. Judge Jonker explained the history of the Committee's consideration of this issue. The subcommittee considered various alternatives in reviewing the suggestion, and determined that there were good points in the suggestion. Some of these could be implemented through training and educational programs rather than a rule change.

11. Report on the status of bankruptcy-related legislation.

Mr. Myers advised that legislation granting an exception from the means test requirements for service members and certain homeland security members is set to expire in December 2015. It has been renewed in the past; however, if not, an amendment to the means test forms (Official Forms 122) will be required.

12. Future meetings.

The spring 2016 meeting will be held March 31-April 1, 2016 in Denver, Colorado.

13. New business.

A suggestion was submitted within the past few weeks for consideration of several amendments, including one regarding social security numbers. The Privacy, Public Access and Appeals subcommittee will consider these issues.

Consent Agenda

The Chair and Reporters proposed several items for study and consideration prior to the Advisory Committee's meeting for approval by acclamation at the meeting if no objection was raised. Judge Ikuta advised that no comments were received on the items listed on the consent agenda. A motion was made to approve the items on the consent agenda and the motion was approved. The items are detailed below.

1. Subcommittee on Consumer Issues.

(A) Suggestion 13-BK-G to amend Fed. R. Bankr. P. 1015(b)

The subcommittee recommended amending Rule 1015(b) to eliminate language suggesting that only opposite-sex married couples may file a joint bankruptcy petition under §303 or that single-sex married couples are subject to different rules regarding their choice of exemptions, per Suggestion 13-BK-G. The suggestion was previously approved at the spring 2014 meeting, but held pending a decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015). The subcommittee also recommended that the Standing Committee approve the amendment without publication.

(B) Suggestion 14-BK-G regarding inclusion of the debtor's full social security number on the version of the meeting of creditor's notice that is sent to the creditors listed in the debtor's schedules.

The subcommittee recommended that the Committee not consider the issue, given its thorough consideration of a similar suggestion in 2012. The subcommittee will engage in some additional informal outreach to certain creditors to inquire whether they are reliant on full social security numbers and report back at the spring 2016 meeting.

2. Subcommittee on Forms.

- (A) Suggestion 15-BK-A by Derek S. Tarson recommending that bankruptcy schedules be made gender neutral in light of *United States v. Windsor*, 570 U.S. 12 (2013).

The subcommittee determined that because the amended Official Forms that take effect December 1, 2015 address Mr. Tarson's concerns, it recommended no further action on this matter.

- (B) Suggestion 15-BK-B by Bankruptcy Judge Martin Teel Jr. proposing revisions Director's Form 263, Bill of Costs.

The subcommittee agreed with the proposal to amend Director's Form 263, and an amended version of the form was included in the agenda materials. The subcommittee recommended that the Director of the Administrative Office adopt the changes as set forth in the revised Director's Form 263 and the related instructions.

- (C) Recommendation to renumber Official Forms 20A, Notice of Motion or Objection, and 20B, Notice of Objection to Claim.

The subcommittee recommended that the forms be renumbered, a minor wording change be made, and that the Committee propose the forms for final approval without publication.

3. Subcommittee on Business Issues.

- (A) Possible changes to Official Forms 25A-C, and 26, and Exhibit A to Official Form 201 (renumbered as Official Form 201A at the spring 2015 meeting, and on track to go into effect December 1, 2015).

The subcommittee recommended no further revisions to Official Form 201A (formerly Exhibit A), and will consider possible changes to Official Forms 25A-C, and 26 with recommendations at the spring 2016 meeting.

4. Privacy, Public Access, and Appeals.

- (A) Suggestion regarding amendment of Rule 8018 (Serving and Filing Briefs; Appendices) (Suggestion 15-BK-C).

The subcommittee determined that Bankruptcy Rules 8018(a)(1) and 8010(c) adequately provide that the briefing schedule set forth in Rule 8018(a) is triggered only upon the transmission of the complete record by the clerk, unless otherwise ordered by the court. Accordingly, the subcommittee recommended no action on this matter at this time.

- (B) Recommendation concerning timing of publication of deferred recommendations to revise Rules 8002(a)(5) and 8006(b) in response to Comment 12-BK-033 (approved at the fall 2013 Advisory Committee meeting), and Rule 8023 (approved at the spring Advisory Committee meeting); and concerning Comments 12-BK-005, 12-BK-015, and 12-BK-040 regarding designation of the record in bankruptcy appeals.

As to the three previously approved amendments, revisions to Rules 8002(a)(5) and 8006(b) in response to Comment 12-BK-033 (approved at the fall 2013 Advisory Committee meeting), and Rule 8023 (approved at the spring Advisory Committee meeting), the subcommittee recommended that they be submitted to the Standing Committee in June 2016, with a request that they be published with the Part VIII amendments that will be proposed to conform to the FRAP amendments. With regards to Comments 12-BK-005, 12-BK-015, and 12-BK-040 regarding designation of the record in bankruptcy appeals, the subcommittee initially referred the matters to the Standing Committee's CM/ECF Subcommittee. Given that the CM/ECF Subcommittee took no action on the comments and is now disbanded, the subcommittee recommended no further action on the comments.

Following the vote to approve the matters on the consent agenda, the meeting was adjourned at 2:40 pm.

Respectfully submitted,

Michelle Harner, assistant reporter