ADVISORY COMMITTEE
ON
BANKRUPTCY RULES

April 2-3, 2020

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ADVISORY COMMITTEE ON BANKRUPTCY RULES

April 3-4, 2020

Discussion Agenda

1. Greetings and introductions (Judge Dow).

   Tab 1 Committee Roster
   Subcommittee Liaisons
   Chart Tracking Proposed Rules Amendments
   Pending Legislation Chart

2. Approval of minutes of the September 26, 2019 meeting in Washington, DC (Judge Dow).

   Tab 2 Draft minutes

3. Oral reports on meeting of other committees:

   A. Standing Committee – January 28, 2020 (Judge Dow, Professors Gibson and Bartell).

   Tab 3A1 Draft minutes of the Standing Committee meeting

   Tab 3A2 March 2020 Report of the Standing Committee to the Judicial Conference

   B. Advisory Committee on Appellate Rules – April 4, 2020 (Judge Donald).

   C. Advisory Committee on Civil Rules – April 1, 2020 (Judge Goldgar).

   D. Bankruptcy Committee – December 10-11, 2019 (Judge Bernstein, Judge Isicoff).

4. Report of the Privacy, Public Access and Appeals Subcommittee (Judge Ambro).

   A. Report on possible amendments to conform Bankruptcy Rule 8003 to proposed changes to Federal Rules of Appellate Procedure 3 (Professor Gibson).

   Tab 4A March 3, 2020 memo by Professor Gibson

5. Report of the Business Subcommittee (Judge Bernstein).

   A. Recommended amendments to Rule 5005 concerning notices sent to the United States trustee (Professor Bartell).

   Tab 5A March 6, 2020 memo by Professor Bartell

B. Recommendation to publish a new subdivision (i) to Rule 7004 addressing Suggestions 19-BK-D and 19-BK-J (Professor Bartell).

Tab 5B March 6, 2020 memo by Professor Bartell

C. Recommendation to republish for comment SBRA Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, 3017.2 (new), 3018 and 3019 (Professor Gibson).

Tab 5C March 2, 2020 memo by Professor Gibson

D. Consideration of comments on published Rules 3007 and 7007.1 (Professor Gibson).

Tab 5D March 2, 2020 memo on Rules 3007 and 7007.1 by Professor Gibson

E. Consideration of comments on published Rule 9036 (Professor Gibson).

Tab 5E March 3, 2020 memo on Rule 9036 by Professor Gibson

6. Report of the Consumer Subcommittee (Judge Goldgar).

A. Consideration of comments on Rule 2005 (Professor Bartell).

Tab 6A March 6, 2020 memo by Professor Bartell

B. Consideration of suggestions 18-BK-G and 18-BK-H for amendments to Rule 3002.1 (Professor Gibson).

Tab 6B March 3, 2020 memo by Professor Gibson

C. Recommendation to publish amendment to Rule 3002(c)(6) in consideration of suggestion 19-BK-F.

Tab 6C March 9, 2020 memo by Professor Bartell

7. Report of the Forms Subcommittee (Judge Hoffman).

A. Recommendation to publish for comment SBRA Forms 101, 122B, 201, 309E1, 309E2, 309F1, 309F2, 314, 315, 425A (Professor Gibson).

Tab 7A March 2, 2020 memo by Professor Gibson

Tab 7A1 Official Form 122B

Tab 7A2 Official Form 122B Committee Note

B. Consideration of conforming amendments to official form 417A (notice of appeal and statement of election) (Professor Gibson).

Tab 7B March 3, 2020 memo by Professor Gibson

C. Discharge orders for subchapter v cases. (Professor Gibson).

Tab 7C March 2, 2020 memo by Professor Gibson

Tab 7C1 Form 3180RV1

Tab 7C2 Form 3180RV2

Tab 7C3 Form 3180RV3

8. Report of the Restyling Subcommittee (Judge Krieger; Professor Bartell).

Tab 8A March 6, 2020 memo by Professor Bartell
Restyled Rules 1001-2020

Tab 8A1 1000 Series Rules

Tab 8A2 2000 Series Rules

9. Future meetings: The fall meeting will be held September 22, 2020 in Washington, D.C.

10. New Business.

11. Adjourn.

Proposed Consent Agenda

The Chair and Reporters have proposed the following items for study and consideration prior to the Advisory Committee's meeting. **Absent any objection, all recommendations will be approved by acclamation at the meeting.** Any of these matters may be moved to the Discussion Agenda if a member or liaison feels that discussion or debate is required prior to Committee action. Requests to move an item to the Discussion Agenda must be brought to attention of the Chair by noon, Eastern Time, on **Thursday, March 26, 2020.**

1. Consumer Subcommittee.

A. Recommendation of no action concerning suggestions 19-BK-I and 19-BK-K for rule amendments to address DSO certification for deceased debtors

Consent Tab 1A March 6, 2020 memo by Professor Bartell

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TAB 1

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ADVISORY COMMITTEE ON BANKRUPTCY RULES

Chair	Reporter
Honorable Dennis Dow United States Bankruptcy Court Charles Evans Whittaker U.S. Courthouse 400 East Ninth Street, Room 6562 Kansas City, MO 64106	Professor S. Elizabeth Gibson University of North Carolina at Chapel Hill 5073 Van Hecke-Wettach Hall, C.B. #3380 Chapel Hill, NC 27599-3380
	Associate Reporter
	Professor Laura B. Bartell Wayne State University Law School 471 W. Palmer Detroit, MI 48202

Members

Honorable Thomas L. Ambro United States Court of Appeals J. Caleb Boggs Federal Building 844 North King Street, Unit 32 Wilmington, DE 19801-3519	Honorable Stuart M. Bernstein United States Bankruptcy Court Alexander Hamilton Custom House One Bowling Green, Room 729 New York, NY 10004-1408
Honorable Bernice B. Donald United States Court of Appeals Clifford Davis and Odell Horton Building 167 North Main Street, Room 1132 Memphis, TN 38103	Honorable A. Benjamin Goldgar United States Bankruptcy Court Everett McKinley Dirksen U.S. Courthouse 219 South Dearborn Street, Room 638 Chicago, IL 60604
Jeffery J. Hartley, Esq. Helmsing Leach Post Office Box 2767 Mobile, AL 36652	Honorable Melvin S. Hoffman United States Bankruptcy Court John W. McCormack Post Office and Courthouse 5 Post Office Square, Room 1150 Boston, MA 02109-3945

Members (continued)

Honorable David A. Hubbert
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1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642

Professor David A. Skeel
University of Pennsylvania Law School
3501 Sansom Street
Philadelphia, PA 19104

Honorable George H. Wu
United States District Court
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Honorable Laurel M. Isicoff
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United States Bankruptcy Court
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301 North Miami Avenue, Room 817
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Honorable William J. Kayatta, Jr.
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Washington, DC 20544

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Advisory Committee on Bankruptcy Rules

Members	Position	District/Circuit	Start Date		End Date
Dennis Dow Chair	B	Missouri (Western)	Member: Chair:	2014 2018	---- 2021
Thomas L. Ambro	C	Third Circuit		2016	2022
Stuart M. Bernstein	B	New York (Southern)		2014	2020
Bernice B. Donald	C	Sixth Circuit		2019	2022
A. Benjamin Goldgar	B	Illinois (Northern)		2014	2020
Jeffery J. Hartley	ESQ	Alabama		2014	2020
Melvin S. Hoffman	B	Massachusetts		2016	2022
David A. Hubbert*	DOJ	Washington, DC		----	Open
Marcia S. Krieger	D	Colorado		2017	2020
Thomas M. Mayer	ESQ	New York		2014	2020
Debra Miller	ESQ	Indiana		2017	2020
J. Paul Oetken	D	New York (Southern)		2019	2022
Jeremy L. Retherford	ESQ	Alabama		2018	2021
David A. Skeel	ACAD	Pennsylvania		2016	2022
George H. Wu	D	California (Central)		2018	2021
S. Elizabeth Gibson Reporter	ACAD	North Carolina		2008	Open
Laura B. Bartell Associate Reporter	ACAD	Michigan		2017	2022

Principal Staff: Rebecca Womeldorf 202-502-1820

S. Scott Myers 202-502-1820

* Ex-officio - Deputy Assistant Attorney General, Tax Division

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RULES COMMITTEE LIAISON MEMBERS

Liaisons for the Advisory Committee on Appellate Rules	Hon. Frank M. Hull *(Standing)* Hon. Bernice B. Donald *(Bankruptcy)*
Liaison for the Advisory Committee on Bankruptcy Rules	Hon. William J. Kayatta, Jr. *(Standing)*
Liaisons for the Advisory Committee on Civil Rules	Peter D. Keisler, Esq. *(Standing)* Hon. A. Benjamin Goldgar *(Bankruptcy)*
Liaison for the Advisory Committee on Criminal Rules	Hon. Jesse M. Furman *(Standing)*
Liaisons for the Advisory Committee on Evidence Rules	Hon. James C. Dever III *(Criminal)* Hon. Carolyn B. Kuhl *(Standing)* Hon. Sara Lioi *(Civil)*

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Senior Research Associate *(Appellate)*

Dr. Emery G. Lee
Senior Research Associate *(Civil)*

Tim Reagan, Esq.
Senior Research Associate *(Standing)*

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Advisory Committee on Bankruptcy Rules

Subcommittee/Liaison Assignments, Effective October 15, 2019

Consumer Subcommittee	Business Subcommittee
Consumer Subcommittee Judge A. Benjamin Goldgar, Chair Judge Bernice Donald Judge George H. Wu Jeff J. Hartley, Esq. Debra L. Miller, Esq. Jeremy L. Retherford, Esq. Ramona D. Elliott, Esq., *EOUST liaison* Kenneth S. Gardner, *ex officio*	**Business Subcommittee** Judge Stuart M. Bernstein, Chair Judge Thomas Ambro Judge J. Paul Oeken Judge Marcia S. Krieger Judge Melvin Hoffman Jeff J. Hartley, Esq. Tom Mayer, Esq. Professor David Skeel Ramona D. Elliott, Esq., *EOUST liaison* Kenneth S. Gardner, *ex officio*
Forms Subcommittee Judge Melvin Hoffman, Chair Judge George H. Wu Judge A. Benjamin Goldgar Debra L. Miller, Esq. Jeremy L. Retherford, Esq. Ramona D. Elliott, Esq., *EOUST liaison* David Hubbert, Esq., *ex officio* Kenneth S. Gardner, *ex officio*	**Privacy, Public Access, and Appeals Subcommittee** Judge Thomas Ambro, Chair Judge Bernice Donald Judge A. Benjamin Goldgar Tom Mayer, Esq. Ramona D. Elliott, Esq., *EOUST liaison* David Hubbert, Esq., *ex officio*
Restyling Subcommittee Judge Marcia S. Krieger, Chair Judge A. Benjamin Goldgar Judge Melvin Hoffman Jeff J. Hartley, Esq Debra L. Miller, Esq. Kenneth S. Gardner, *ex officio* John Rao, Esq. *consultant* Ramona D. Elliott, Esq., *EOUST liaison*	**Technology and Cross Border Insolvency Subcommittee** Judge J. Paul Oeken, Chair Judge Melvin Hoffman Professor David Skeel Ramona D. Elliott, Esq., *EOUST liaison*
Civil Rules Liaison: Judge Benjamin Goldgar	**Appellate Rules Liaison:** Judge Bernice Donald

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Effective December 1, 2019 REA History: no contrary action by Congress; adopted by the Supreme Court and transmitted to Congress (Apr 2019); approved by Judicial Conference (Sept 2018) and transmitted to Supreme Court (Oct 2018)		
Rule	**Summary of Proposal**	**Related or Coordinated Amendments**
AP 3, 13	Changed the word "mail" to "send" or "sends" in both rules, although not in the second sentence of Rule 13.	
AP 26.1, 28, 32	Rule 26.1 amended to change the disclosure requirements, and Rules 28 and 32 amended to change the term "corporate disclosure statement" to "disclosure statement" to match the wording used in amended Rule 26.1.	
AP 25(d)(1)	Eliminated unnecessary proofs of service in light of electronic filing.	
AP 5.21, 26, 32, 39	Technical amendment that removed the term "proof of service."	AP 25
BK 9036	Amended to allow the clerk or any other person to notice or serve registered users by use of the court's electronic filing system and to serve or notice other persons by electronic means that the person consented to in writing.	
BK 4001	Amended to add subdivision (c) governing the process for obtaining post-petition credit in a bankruptcy case, inapplicable to chapter 13 cases.	
BK 6007	Amended subsection (b) to track language of subsection (a) and clarified the procedure for third-party motions brought under § 554(b) of the Bankruptcy Code.	
BK 9037	Amended to add subdivision (h) providing a procedure for redacting personal identifiers in documents that were previously filed without complying with the rule's redaction requirements.	
CR 16.1 (new)	New rule regarding pretrial discovery and disclosure. Subsection (a) requires that, no more than 14 days after the arraignment, the attorneys are to confer and agree on the timing and procedures for disclosure in every case. Subsection (b) emphasizes that the parties may seek a determination or modification from the court to facilitate preparation for trial.	
EV 807	Residual exception to the hearsay rule; clarifies the standard of trustworthiness.	
2254 R 5	Makes clear that petitioner has an absolute right to file a reply.	
2255 R 5	Makes clear that movant has an absolute right to file a reply.	

Revised March 2020

Effective February 19, 2020 The Interim Rules listed below were published for comment in the fall of 2019 outside the normal REA process and approved by the Judicial Conference for distribution to Bankruptcy Courts to be adopted as local rules to conform procedure to changes in the Bankruptcy Code -- adding a subchapter V to chapter 11 -- made by the Small Business Reorganization Act of 2019		
Rule	**Summary of Proposal**	**Related or Coordinated Amendments**
BK 1007	The amendments exclude a small business debtor in subchapter V case from the requirements of the rule.	
BK 1020	The amendments require a small business debtor electing to proceed on the subchapter V to state its intention on the bankruptcy petition or within 14 days after the order for relief is entered.	
BK 2009	2009(a) and (b) are amended to exclude subchapter V debtors and 2009(c) is amended to add subchapter V debtors.	
BK 2012	2012(a) is amended to include chapter V cases in which the debtor is removed as the debtor in possession.	
BK 2015	The rule is revised to describe the duties of a debtor in possession, the trustee, and the debtor in a subchapter V case.	
BK 3010	The rule is amended to include subchapter V cases.	
BK 3011	The rule is amended to include subchapter V cases.	
BK 3014	The rule is amended to provide a deadline for making an election under 1111(b) of the Bankruptcy Code in a subchapter V case.	
BK 3016	The rule is amended to reflect that a disclosure statement is generally not required in a subchapter V case, and that official forms are available for a reorganization plan and - if required by the court - a disclosure statement.	
BK 3017.1	The rule is amended to apply to subchapter V cases where the court has ordered that the provisions of 1125 of the Bankruptcy Code applies.	
BK 3017.2	This is a new rule that fixes dates in subchapter V cases where there is no disclosure statement.	
BK 3018	The rule is amended to take account of the court's authority to set times under Rules 3017.1 and 3017.2 in small business cases and subchapter V cases.	
BK 3019	Subdivision (c) is added to the rule to govern requests to modify a plan after confirmation in a subchapter V case under 1193(b) or (c) of the Bankruptcy Code.	

Revised March 2020

Effective (no earlier than) December 1, 2020 Current Step in REA Process: transmitted to Supreme Court (Oct 2019) REA History: approved by Judicial Conference (Sept 2019); approved by Standing Committee (June 2019); approved by relevant advisory committee (Spring 2019); published for public comment (unless otherwise noted, Aug 2018-Feb 2019); approved by Standing Committee for publication (unless otherwise noted, June 2018)		
Rule	**Summary of Proposal**	**Related or Coordinated Amendments**
AP 35, 40	Proposed amendment clarifies that length limits apply to responses to petitions for rehearing plus minor wording changes.	
BK 2002	Proposed amendment would: (1) require giving notice of the entry of an order confirming a chapter 13 plan; (2) limit the need to provide notice to creditors that do not file timely proofs of claim in chapter 12 and chapter 13 cases; and (3) add a cross-reference in response to the relocation of the provision specifying the deadline for objecting to confirmation of a chapter 13 plan.	
BK 2004	Amends subdivision (c) to refer specifically to electronically stored information and to harmonize its subpoena provisions with the current provisions of Civil Rule 45, which is made applicable in bankruptcy cases by Bankruptcy Rule 9016.	CV 45
BK 8012	Conforms Bankruptcy Rule 8012 to proposed amendments to Appellate Rule 26.1 that were published in Aug 2017.	AP 26.1
BK 8013, 8015, and 8021	Unpublished. Eliminates or qualifiies the term "proof of service" when documents are served through the court's electronic-filing system conforming to pending changes in 2019 to AP Rules 5, 21, 26, 32, and 39.	AP 5, 21, 26, 32, and 39
CV 30	Proposed amendment to subdivision (b)(6), the rule that addresses deposition notices or subpoenas directed to an organization, would require the parties to confer about the matters for examination before or promptly after the notice or subpoena is served. The amendment would also require that a subpoena notify a nonparty organization of its duty to confer and to designate each person who will testify.	
EV 404	Proposed amendment to subdivision (b) would expand the prosecutor's notice obligations by: (1) requiring the prosecutor to "articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose"; (2) deleting the requirement that the prosecutor must disclose only the "general nature" of the bad act; and (3) deleting the requirement that the defendant must request notice. The proposed amendments also replace the phrase "crimes, wrongs, or other acts" with the original "other crimes, wrongs, or acts."	

Revised March 2020

Effective (no earlier than) December 1, 2021 Current Step in REA Process: published for public comment (Aug 2019-Feb 2020) REA History: unless otherwise noted, approved for publication (June 2019)		
Rule	**Summary of Proposal**	**Related or Coordinated Amendments**
AP 3	The proposed amendments to Rule 3 address the relationship between the contents of the notice of appeal and the scope of the appeal. The proposed amendments change the structure of the rule and provide greater clarity, expressly rejecting the *expressio unius* approach, and adding a reference to the merger rule.	AP 6, Forms 1 and 2
AP 6	Conforming amendments to the proposed amendments to Rule 3.	AP 3, Forms 1 and 2
AP 42	The proposed amendment to Rule 42 clarifies the distinction between situations where dismissal is mandated by stipulation of the parties and other situations. The proposed amendment would subdivide Rule 42(b), add appropriate subheadings, and change the word “may” to “must” in new Rule 42(b)(1) for stipulated dismissals. Also, the phrase “no mandate or other process may issue without a court order” is replaced in new (b)(3). A new subsection (C) was added to the rule to clarify that Rule 42 does not alter the legal requirements governing court approval of a settlement, payment, or other consideration.	
AP Forms 1 and 2	Conforming amendments to the proposed amendments to Rule 3, creating Form 1A and Form 1B to provide separate forms for appeals from final judgments and appeals from other orders.	AP 3, 6
BK 2005	The proposed amendment to subsection (c) of the replaces the reference to 18 U.S.C. § 3146(a) and (b), (which was repealed in 1984) with a reference to 18 U.S.C. § 3142 .	
BK 3007	The proposed amendment clarifies that credit unions may be served with an objection claim under the general process set forth in Rule 3007(a)(2)(A) - by first-class mail sent to the person designated on the proof of claim.	
BK 7007.1	The proposed amendment would conform the rule to recent amendments to Rule 8012, and Appellate Rule 26.1.	CV 7.1
BK 9036	The proposed amendment would require high-volumne paper notice recipients (intially designated as recipients of more than 100 court papers notices in calendar month) to sign up for electronic service and noticing, unless the recipient designates a physical mailing address if so authorized by statute.	
CV 7.1	Proposed amendment would: (1) conform Civil Rule 7.1 with pending amendments to Appellate Rule 26.1 and Bankruptcy Rule 8012; and (2) require disclosure of the name and citizenship of each person whose citizenship is attributed to a party for purposes of determining diversity jurisdiction.	AP 26.1, BK 8012

Revised March 2020

Pending Legislation that Would Directly or Effectively Amend the Federal Rules

116th Congress

Name	Sponsor(s)/ Co-Sponsor(s)	Affected Rule	Text, Summary, and Committee Report	Actions
Protect the Gig Economy Act of 2019	**H.R. 76** *Sponsor:* Biggs (R-AZ)	CV 23	**Bill Text:** https://www.congress.gov/116/bills/hr76/BILLS-116hr76ih.pdf **Summary (authored by CRS):** This bill amends Rule 23 of the Federal Rules of Civil Procedure to expand the preliminary requirements for class certification in a class action lawsuit to include a new requirement that the claim does not allege misclassification of employees as independent contractors. **Report:** None.	• 1/3/19: Introduced in the House; referred to Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Justice
Injunctive Authority Clarification Act of 2019	**H.R. 77** *Sponsor:* Biggs (R-AZ) *Co-Sponsors:* Meadows (R-NC) Rose (R-TN) Roy (R-TX) Wright (R-TX)	CV	**Bill Text:** https://www.congress.gov/116/bills/hr77/BILLS-116hr77ih.pdf **Summary (authored by CRS):** This bill prohibits federal courts from issuing injunctive orders that bar enforcement of a federal law or policy against a nonparty, unless the nonparty is represented by a party in a class action lawsuit. **Report:** None.	• 1/3/19: Introduced in the House; referred to Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security • 2/25/20: hearing held by Senate Judiciary Committee on same issue ("Rule by District Judge: the Challenges of Universal Injunctions")
Litigation Funding Transparency Act of 2019	**S. 471** *Sponsor:* Grassley (R-IA) *Co-Sponsors:* Cornyn (R-TX) Sasse (R-NE) Tillis (R-NC)	CV 23	**Bill Text:** https://www.congress.gov/116/bills/s471/BILLS-116s471is.pdf **Summary:** Requires disclosure and oversight of TPLF agreements in MDL's and in "any class action." **Report:** None.	• 2/13/19: Introduced in the Senate; referred to Judiciary Committee

Due Process Protections Act	**S. 1380** *Sponsor:* Sullivan (R-AK) *Co-Sponsor:* Durbin (D-IL)	CR 5	**Bill Text:** https://www.congress.gov/116/bills/s1380/BILLS-116s1380is.pdf **Summary:** This bill would amend Criminal Rule 5 (Initial Appearance) by: 1. redesignating subsection (f) as subsection (g); and 2. inserting after subsection (e) the following: "(f) Reminder Of Prosecutorial Obligation. -- (1) IN GENERAL. -- In all criminal proceedings, on the first scheduled court date when both prosecutor and defense counsel are present, the judge shall issue an oral and written order to prosecution and defense counsel that confirms the disclosure obligation of the prosecutor under Brady v. Maryland, 373 U.S. 83 (1963) and its progeny, and the possible consequences of violating such order under applicable law. (2) FORMATION OF ORDER. -- Each judicial council in which a district court is located shall promulgate a model order for the purpose of paragraph (1) that the court may use as it determines is appropriate." **Report:** None.	• 5/8/19: Introduced in the Senate; referred to Judiciary Committee
Assessing Monetary Influence in the Courts of the United States Act (AMICUS Act)	**S. 1411** *Sponsor:* Whitehouse (D-RI) *Co-Sponsors:* Blumenthal (D-CT) Hirono (D-HI)	AP 29	**Bill Text:** https://www.congress.gov/116/bills/s1411/BILLS-116s1411is.pdf **Summary:** In part, the legislation would require certain amicus curiae to disclose whether counsel for a party authored the brief in whole or in part and whether a party or a party's counsel made a monetary contribution intended to fund the preparation or submission of the brief. **Report:** None.	• 5/9/19: Introduced in the Senate; referred to Judiciary Committee

Back the Blue Act of 2019	**S. 1480** *Sponsor:* Cornyn (R-TX) *Co-Sponsors:* Barrasso (R-WY) Blackburn (R-TN) Blunt (R-MO) Boozman (R-AR) Capito (R-WV) Cassidy (R-LA) Cruz (R-TX) Daines (R-MT) Fischer (R-NE) Hyde-Smith (R-MS) Isakson (R-GA) Perdue (R-GA) Portman (R-OH) Roberts (R-KS) Rubio (R-FL) Tillis (R-NC)	§ 2254 Rule 11	**Bill Text:** https://www.congress.gov/116/bills/s1480/BILLS-116s1480is.pdf **Summary:** Section 4 of the bill is titled "Limitation on Federal Habeas Relief for Murders of Law Enforcement Officers." It adds to § 2254 a new subdivision (j) that would apply to habeas petitions filed by a person in custody for a crime that involved the killing of a public safety officer or judge. Section 4 also amends Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts -- the rule governing certificates of appealability and time to appeal -- by adding the following language to the end of that Rule: "Rule 60(b)(6) of the Federal Rules of Civil Procedure shall not apply to a proceeding under these rules in a case that is described in section 2254(j) of title 28, United States Code." **Report:** None.	• 5/15/19: Introduced in the Senate; referred to Judiciary Committee
	H.R. 5395 *Sponsor:* Bacon (R-NE) *Co-Sponsors:* Graves (R-LA) Johnson (R-OH) Stivers (R-OH)		Identical to Senate bill (see above).	• 12/11/19: introduced in House; referred to Judiciary Committee • 1/30/20: referred to Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security
N/A		CV 26		• 9/26/19: House Judiciary Committee hearing on the topics of PACER, cameras in the courtroom, and sealing court filings

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TAB 2

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ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of September 26, 2019
Washington, D.C.

The following members attended the meeting:

Bankruptcy Judge Dennis Dow, Chair
Circuit Judge Thomas Ambro
Bankruptcy Judge Stuart M. Bernstein
Bankruptcy Judge A. Benjamin Goldgar
Jeffery J. Hartley, Esq.
Bankruptcy Judge Melvin S. Hoffman
David A. Hubbert, Esq.
District Judge Marcia S. Krieger
Debra Miller, Chapter 13 trustee
Jeremy L. Retherford, Esq.
Professor David A. Skeel
Circuit Judge Amul R. Thapar
District Judge George Wu

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter
Professor Laura Bartell, associate reporter
District Judge David G. Campbell, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Professor Daniel Coquillette, consultant to the Standing Committee (called in)
Professor Catherine Struve, reporter to the Standing Committee (called in)
Bankruptcy Judge Mary Gorman, liaison from the Bankruptcy Committee
Circuit Judge William J. Kayatta, Jr., liaison from the Standing Committee (called in)
Rebecca Womeldorf, Secretary, Standing Committee and Rules Committee Officer
Ramona D. Elliot, Esq., Deputy Director/General Counsel, Executive Office for U.S. Trustee
Kenneth Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Molly Johnson, Senior Research Associate, Federal Judicial Center
Allison R. Bruff, Esq., Administrative Office
Bridget Healy, Esq., Administrative Office
Scott Myers, Esq., Administrative Office
Nancy Whaley, National Association of Chapter 13 Trustees

Discussion Agenda

1. Greetings and introductions

Judge Dennis Dow welcomed the group. He introduced Judge David Campbell, the chair of the Standing Committee, and Professor Daniel Coquilette, and Professor Catherine Struve, the consultant and reporter for the Standing Committee, who were participating by phone. He also introduced others attending the meeting. He acknowledged Judges Pepper and Thapar, whose terms expire this fall, for their service to the Advisory Committee. He pointed out that the first Consent Agenda item has been moved to the Discussion Agenda and that there are handouts in connection with two items on the agenda.

2. Approval of minutes of San Antonio, Texas April 4, 2019 meeting

The minutes were approved by motion and vote.

3. Oral reports on meetings of other committees

(A) June 25, 2019 Standing Committee meeting

Judge Dow gave the report. The Standing Committee approved the proposed amendments to Bankruptcy Rules 2002, 2004, and 8012 after publication and consideration of comments. The Standing Committee also approved without publication proposed amendments to Bankruptcy Rules 8013, 8015, and 8021 to conform to amended Federal Rule of Appellate Procedure 25(d) in eliminating the requirement of proof of service for documents served through the court's electronic-filing system. The Standing Committee agreed to transmit all amended Rules to the Judicial Conference of the United States for consideration with a recommendation that they be approved and sent to the Supreme Court.

The Standing Committee also approved the recommendation of the Advisory Committee that it approve effective December 1, 2019, amended Official Form 122A-1 for use in all bankruptcy proceedings commenced after the effective date and, insofar as just and practicable, all proceedings pending on the effective date. The amendment, proposed by an attorney who assists pro se debtors in the Bankruptcy Court of the Central District of California, adds a duplicated instruction emphasizing that a debtor should not complete Official Form 122A-2 if the debtor's current monthly income, multiplied by 12, is less than or equal to the applicable median family income.

The Standing Committee also approved the request by the Advisory Committee for publication in August 2019 of proposed amendments to Rules 3007, 7007.1, and 9036. With respect to Rule 2005, the Standing Committee recommended that the rule be published for comment rather than adopted as a technical amendment, and made a small amendment to the Advisory Committee draft, inserting the word "relevant."

Judge Dow also provided the Standing Committee information on additional work of the Advisory Committee, in particular on restyling and unclaimed funds.

(B) April 5, 2019 Meeting of the Advisory Committee on Appellate Rules

There was no report at the meeting. The following report was submitted by Judge Pamela Pepper after the meeting:

The Advisory Committee on Appellate Rules met in San Antonio on April 5, 2019.

The Advisory Committee continued discussion of an amended Fed. R. App. P. 3, "Appeal Taken As of Right—How Taken" to address the problem created by a case in the Tenth Circuit in which the court found that if the appellant did not specify every single order being appealed, the appellant had waived the right to appeal any order not mentioned. FRAP 3(c)(1)(B) says that the notice of appeal has to "designate the judgment, order, or part thereof being appealed;" it was this language that led the Tenth Circuit to conclude that if the appellant didn't specify exactly the order or orders—or parts of orders—being appealed, the appellant had waived appeal of any unspecified orders.

The proposed amendment to Rule 3(c)(1)(B) would replace the phrase "being appealed" with the phrase "from which the appeal is taken." A new (c)(4) would refer to the merger rule and clarify that there is no need to include in the notice of appeal orders that merge into the designated judgment or order. A new (c)(6) would repudiate the *expressio unius* rationale. A new (c)(5)(A) would clarify that a notice of appeal that designates an order that disposes of all remaining claims in a case includes the final judgment.

At the April 5 meeting, the appellate rules committee word-smithed the proposed rule. At the end of the discussion, the chair of the standing committee, Judge David Campbell, asked the reporter (Professor Catherine Struve) to check with the bankruptcy and tax committees, and to run the proposed rule by those committees before taking the proposed rule on to the standing committee for publication.

The Advisory Committee also considered a proposed amendment to Rule 42, "Voluntary Dismissal." Rule 42(b) currently says that the clerk of the circuit court "may" dismiss a docketed

appeal if the parties filed a stipulation to dismissal. The proposal would change the word "may" to "must." It would also put the last sentence of that section—"An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court"—into a separate section, to make clear that there's a difference between a *stipulated* dismissal (which, under the new rule, must be dismissed) and a *motion* to dismiss, which the court would need to rule on. There's a third proposed change, about trying to explain what the rule means when it says "no mandate or other process may issue without a court order." This proposed rule change was approved (as revised) to send to the Standing Committee to publish for public comment.

A subcommittee is working on Rules 35 (En Banc Determination) and 40 (Petition for Panel Rehearing), considering how and when to allow the court to convert a panel rehearing into an *en banc* rehearing and vice versa. There are differences among the circuits. There was discussion about a range of issues, but the subcommittee will continue its work.

The committee had been waiting on the Supreme Court's decision in Nutraceutical v. Lambert, 139 S. Ct. 710 (2019) to see whether there were equitable tolling issues that might require a fix to FRAP 4(a)(5)(C) (motions for extension of time can't exceed 30 days after "the prescribed time," or 14 days after the date when the order granting the motion is entered). Everyone concluded no fix was necessary. The committee also had been thinking about whether it was necessary to create a rule governing how the court of appeals should deal with the vote of a judge who has left the bench, but everyone agreed that the Supreme Court's decision in Yovino v. Rizo, 139 S. Ct. 706 (2019) had resolved that issue. (C) April 3, 2019 Meeting of the Advisory Committee on Civil Rules

Judge Benjamin Goldgar provided the report.

The MDL Subcommittee continues to consider proposals to formulate rules for multi-district litigation cases.

The Civil Rules Committee approved for transmission to the Standing Committee Rule 30(b)(6) on depositions of an organization as amended after publication and comments. The Standing Committee gave final approval to the amended rule.

The Standing Committee, at the request of the Civil Rules Committee, approved for publication and comment an amendment to Rule 7.1(a) that parallels amendments to Bankruptcy Rule 8012 and Appellate Rule 26.

The joint task forced created by the Civil Rules Committee and the Appellate Rules Committee is still considering the Supreme Court decision in *Hall v. Hall*, 138 S.Ct. 1118

(2018), in which the Court ruled that when originally independent cases are consolidated under Rule 42(a)(2), they remain separate actions for purposes of final-judgment appeal under 28 U.S.C. § 1291. Judge Goldgar is participating in that consideration, because Rule 42 applies in bankruptcy cases. It is too soon to know whether the joint task force will find the problem is one that needs to be addressed.

The mandatory disclosure pilot program is ongoing in two districts and is being assessed.

(D) June 13-14, 2019 meeting of the Committee on the Administration of the Bankruptcy System

Judge Mary Gorman provided the report.

Longtime chair of the Bankruptcy Committee, Judge Karen E. Schreier, has retired and Judge Sara Darrow of the C.D. Ill. is assuming the chair.

One of the major projects the committee is working on is the diversity project The bankruptcy courts lag other federal courts on diversity, and the Committee has undertaken programs in many major cities to encourage students to think about bankruptcy work and start the process towards diversity in practice and eventually on the bench.

Subcommittee Reports and Other Action Items

4. Report by Appeals, Privacy, and Public Access Subcommittee

(A) Recommendation to conform Bankruptcy Rule 8023 to proposed changes to Federal Rules of Appellate Procedure 42(b)

Judge Ambro and Professor Bartell provided the report. At the meeting of the Standing Committee on June 25, 2019, the Advisory Committee on Appellate Rules presented proposed amendments to Rule 42(b) dealing with voluntary dismissals. The amended version is intended to make dismissal mandatory upon agreement by the parties, as the rule stated prior to its restyling. It also intends to clarify that a court order is required for any action other than a simple dismissal. The rule does not change applicable law requiring court approval of settlements, payments, or other consideration. The revised Rule 42(b) was approved for publication.

Bankruptcy Rule 8023 was modeled on Rule 42(b), and in order to maintain the parallel structure of the rules, the Subcommittee recommended that the Advisory Committee recommend

to the Standing Committee the publication of the conforming changes to Rule 8023 and related committee note. The Advisory Committee approved the recommendation.

(B) Consider Suggestion 19-BK-G from Sai to amend Rule 9006 with a new subsection (h) requiring court calculation and notice of deadlines

Professor Gibson provided the report. The Advisory Committee has received a suggestion (19-BK-G) submitted by Sai (an advocate for pro se litigants) that seeks to shift from parties to the courts the obligation of determining when actions must be taken and documents filed under the various sets of federal rules. The identical suggestion was also submitted to the Civil, Criminal, and Appellate Advisory Committees. Sai noted that the calculation of deadlines under the federal rules can be difficult, even for attorneys and even more so for pro se litigants, and that the consequences of a calculation error can be severe. Sai noted that clerk's offices already calculate these deadlines for court purposes and suggested that they should issue the results of their calculations as "a simple clerk's order" that parties would be permitted to rely on.

In his suggestion to the Advisory Committee, he provided proposed language amending Rule 9006 by adding a new subsection (h) requiring the court to calculate deadlines and give notice of those deadlines to all filers.

The Subcommittee discussed the suggestion and little support was expressed for it. Members feared that the burden it would place on clerk's offices would be excessive and were also concerned that it would impermissibly require those offices to provide legal advice to parties. Some questioned whether, in the case of jurisdictional deadlines, a rule could allow parties to rely on what turns out to be an erroneous calculation by the court.

The Subcommittee referred the matter to the full Advisory Committee for discussion of whether it should be pursued as proposed or in any narrower respect, such as having the clerk's office specify deadlines for only a limited set of actions and filings. The views of the Committee will then be shared with the other advisory committees.

Ken Gardner characterized the suggestion as "problematic" and expressed his view that the suggestion was not a good one. No other member of the Advisory Committee expressed enthusiasm for the suggestion. The consensus was to not take any action with respect to this suggestion. Judge Krieger suggested tabling the suggestion to await views of other committees. Judge Campbell said that the Standing Committee wished to hear the views of the various advisory committees, and the Advisory Committee for the Criminal Rules had already discussed the matter at its fall meeting and was not willing to pursue it. Judge Goldgar proposed a table of deadlines be distributed instead of individualized notice of deadlines. Judge Campbell said that

there are resources on timelines available without creating new ones. Concern was expressed about creating something that litigants rely upon and that could mislead them.

The Advisory Committee voted to table the suggestion, on the understanding that it might be reconsidered if other Advisory Committees find merit in it.

5. Report by the Business Subcommittee

(A) Recommended amendments to Rule 5005 concerning notices sent to the United States trustee

Professor Bartell provided the report. Currently pending before Congress are amendments to Rule 9036 that would allow clerks and parties to provide notices or serve documents (other than those governed by Rule 7004) by means of the court's electronic-filing system on registered users of that system. The rule would also allow service or noticing on any entity by any electronic means consented to in writing by that person. We anticipate that these amendments will go into effect in December.

Transmittal of papers to the U.S. Trustee is governed by Rule 5005, which requires that such papers be "mailed or delivered to an office of the United States trustee, or to another place designated by the United States trustee" and that the entity transmitting the paper file as proof of transmittal a verified statement.

For the last year, the EOUST has been considering whether any changes should be made to Rule 5005 in light of the pending changes to Rule 9036. The EOUST would like to suggest proposed amendments to Rule 5005 to conform this USTP-specific rule to both amended Rule 9036 and current bankruptcy practice under Rule 5005(b). The proposed changes would allow papers to be transmitted to the U.S. Trustee by electronic means, and would eliminate the requirement that the filed statement evidencing transmittal be verified.

Because the Department of Justice has not provided final approval to the proposed amendments, the Advisory Committee voted to table the proposal until the spring meeting.

(B) Recommended Rule and Form amendments needed to implement the Small Business Reorganization Act of 2019

Professor Gibson provided the report. On August 23 the President signed into law the Small Business Reorganization Act of 2019 ("SBRA"), which creates a new subchapter of chapter 11 for the reorganization of small business debtors. It will go into effect 180 days after

that date, which will be February 19, 2020. It does not repeal existing chapter 11 provisions regarding small business debtors, but instead it creates an alternative procedure that small business debtors may elect to use. Proceedings using the current chapter 11 provisions will continue to be called "small business cases," while cases for which the new procedure is elected will be called "cases under subchapter V of chapter 11." Debtors using either procedure are called "small business debtors."

The enactment of SBRA requires amendments to a number of bankruptcy rules and forms, often to exclude subchapter V cases from provisions referring generally to chapter 11 or to add new provisions applying to subchapter V cases.

The Subcommittee examined proposed amendments to nine bankruptcy rules – Rules 1007, 1020, 2003, 2009, 2012, 2015, 3010, 3011, and 3016, and amendments to seven Official Forms – 101, 201, 309E, 309F, 314, 315, and 425A. Professor Gibson summarized each of the amendments and the comments made on the amendments by retired bankruptcy judge Tom Small.

With respect to Rule 1007(h), Judge Hoffman noted that the proposed revisions did not work with respect to a liquidating chapter 11 case when there is no discharge. The language will be amended to keep the current language but carve out subchapter V cases and add a new clause for Subchapter V.

With respect to Rule 1020(b), which specifies when the US Trustee or a party in interest may file an objection to debtor's statement that debtor is a small business debtor, Ramona Elliot raised the issue of whether there could be an election of subchapter V status after the initial petition is filed, and when the US trustee could object in that situation. The same issue arises under the current rule with respect to potential elections made after the initial filing. She does not suggest any change to the rule in this regard.

In Rule 3016(d), "title 11" should be "chapter 11". There was discussion about whether subchapter V cases should be included in this provision, and it was decided that the standard form plan was not required so there was no harm to the inclusion.

On the various versions of Form 309, there was some discussion about how the information about the trustee would be provided prior to the trustee's appointment, and the conclusion was that the line would read "not yet appointed" and disclosed in connection with the notice of the 341 meeting.

Ken Gardner relayed the views of the bankruptcy clerks' advisory group that having separate 309 forms for subchapter V, rather than including the changes in the current forms, was preferable. The Advisory Committee agreed with that approach.

In new form 309E2, the reference to section 1141(d)(5) will be eliminated in line 11.

In the discussion of Form 425, Deb Miller raised the issue about where the computation of projected disposable income would appear. In the third statement on the first page, the form will be modified to replace the disclosure related to "aggregate average cash flow" with one of "projected disposable income" in conformity with Bankruptcy Code § 1191(c)(2). Judge Bernstein suggested a separate box for a subchapter V discharge in Article 9. This language will be circulated for approval after the meeting.

Ramona Elliot suggested that the Advisory Committee recommend no change to Rule 2003, because there is no reason to shorten the time period for holding 341 meetings in subchapter V cases. The Advisory Committee agreed. Judge Gorman spoke in favor of the amendment to Rule 3010 and Rule 3011 to allow for the trustee to dispose of small amounts, and the Advisory Committee agreed.

Deb Miller suggested that Rule 3002 should be amended to include subchapter V cases, and Rule 3003 should be amended to exclude subchapter V cases. The Advisory Committee was not prepared to consider all the implications of those suggestions at the meeting, and recognized that courts can set their own bar dates. If the trustees wish these suggestions to be pursued, the Advisory Committee will consider them at a future meeting.

Finally, there was a discussion of Judge Small's question about whether a subchapter V election can be made with respect to a case pending on the effective date of SBRA, and whether debtors can change their minds in the future. Professor Gibson recommended handling this by motion in individual cases, without any procedural rule changes. The Advisory Committee agreed.

The Advisory Committee approved all amended rules (other than Rule 2003) and forms with the changes and subject to the conditions noted above.

Because SBRA will take effect long before the rulemaking process can run its course, the amended rules will need to be issued initially as interim rules for adoption by each judicial district as local rules or by general order, and amended forms will need to be issued by the Advisory Committee subject to later approval by the Standing Committee and notice to the Judicial Conference.

Professor Gibson asked Scott Myers to explain the process by which the rules and forms might be added. The Advisory Committee would recommend to the Standing Committee a short public comment period, no longer than 30 days. The Advisory Committee and Standing Committee could consider final recommendations in November by email vote, and the Advisory Committee would then ask the Executive Committee of the Judicial Conference to allow the Standing Committee and the Advisory Committee to post and distribute to the courts the interim rules. With that approval, chief judges of the district courts and bankruptcy courts would be asked to adopt the interim rules as local rules or by general order to take effect on February 19, 2020.

The Advisory Committee would then start the process for approval of permanent rules, seeking publication of the interim rules, with any needed revisions, for public comment next August. Following the normal process would lead to an effective date of the rules of December 1, 2022.

Although the rule changes would be presented as interim rules, any form changes could be adopted by the Advisory Committee with later approval by the Standing Committee and notice to the Judicial Conference. The Advisory Committee decided to seek comments on the proposed form amendments when it publishes the proposed rule amendments for comment in October. The Advisory Committee will then adopt the form changes, subject to later approval by the Standing Committee and notice to the Judicial Conference. The Advisory Committee will seek comment on the form changes again in August 2020 when the proposed permanent rule changes are published, and it could revise the forms after that if appropriate.

The Advisory Committee will ask for authority from the Standing Committee to publish the changes for comment in October. The Advisory Committee will then make a final recommendation to the Standing Committee for the approval of interim rules in November.

6. Report by the Consumer Subcommittee

(A) Consideration of suggestions 18-BK-G and 18-BK-H for amendments to Rule 3002.1

Professor Gibson provided the report. As was discussed at the spring 2019 meeting, the Advisory Committee has received suggestions 18-BK-G and 18-BK-H from the National Association of Chapter Thirteen Trustees and the American Bankruptcy Institute's Commission on Consumer Bankruptcy regarding amendments to Rule 3002.1 (Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence).

Judge Goldgar appointed a working group to review the suggestions and make a recommendation to the Subcommittee. The working group met telephonically several times during the summer and presented a discussion draft of a revised Rule 3002.1 to the Subcommittee. The Subcommittee began its review and discussion of the draft during its August 20, 2019, conference call and will continue its work on the draft this fall.

In addition to considering the content of the suggestions and the language and organization of the draft, the Subcommittee is considering several overarching issues presented by the suggested amendments to Rule 3002.1. They include (1) whether requiring the delay of the effective date of a payment change due to an untimely notice is consistent with the Rules Enabling Act and the Bankruptcy Code; (2) whether Official Forms should be created to implement any new provisions; (3) which, if any, additional enforcement provisions should be proposed; and (4) whether the rule should be divided into two rules to make it easier to read.

The Subcommittee anticipates making a recommendation to the Advisory Committee at the spring 2020 meeting. There was some discussion about whether additional sanctions are needed under the circumstances described in the rule.

(B) Consideration of suggestion 19-BK-F to amend Rule 3002(c)(6)(A) to expand the situations in which a creditor who doesn't get actual or constructive notice in reasonable time to file a proof of claim can seek an extension of the time to file

Professor Bartell provided the report. The Advisory Committee received a suggestion from George Weiss of Potomac, MD, 19-BK-F, with respect to Fed. R. Bankr. P. 3002(c)(6)(A). Rule 3002 requires creditors to file proofs of claim for their claims to be allowed, and specifies, in Rule 3002(c), the deadline for filing those proofs of claim in cases filed under chapter 7, 12 and 13. Rule 3002(c) then provides certain exceptions, including for domestic creditors, in clause (1), when "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a)." Mr. Weiss noted that this would not permit an extension of the deadline for creditors who actually did not get notice either because they were omitted from the matrix or were listed with an improper address.

Professor Bartell noted that the most recent amendments to Rule 3002(c) were made in connection with the adoption of the national chapter 13 plan, and were published twice, in 2013 and 2014. There were extensive comments on the amendments, many of which made the same point that Mr. Weiss is making now. There is no indication that these comments were

considered at the time, probably because of the volume of comments on the national chapter 13 plan.

If the Rule was intended to extend the bar date for domestic creditors only if no list of creditors was filed at all, it will never have any practical impact. There are no reported cases in which the debtor failed to file a list of creditors under Rule 1007(a) and, as a result, the creditor obtained an extension for filing a proof of claim. The prior comments on proposed Rule 3002(c)(6), as well as the current suggestion of Mr. Weiss, suggest that the Advisory Committee should consider expanding the Rule.

There are two possible approaches. The first would be to allow an extension if "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim." That is the standard now applicable to foreign creditors under Rule 3002(c)(2). The second would be to allow an extension only if "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to include the creditor's correct name or its proper address on the list of creditors' names and addresses required by Rule 1007(a)." The Subcommittee made no recommendation as between the two approaches, but referred the matter to the Advisory Committee.

The Advisory Committee recommitted the matter to the Subcommittee to make a recommendation at the next meeting of the Advisory Committee.

7. Report by the Forms Subcommittee

(A) Recommend amendments to Official Forms 122A-1, 122B, and 122C-1 lines 9 & 10 to implement the recently enacted Haven Act of 2019

Professor Bartell provided the report. The "Honoring American Veterans in Extreme Need Act of 2019" or the "HAVEN Act" was signed by the President on August 23. This new law amends the definition of "current monthly income" in Section 101(10) of the Code to exclude certain income in connection with a disability, combat-related injury or disability or death of a member of the uniformed services. It also limits retired pay excluded under the new provision.

This exclusion is added to the current exclusions for social security benefits, payments to victims of war crimes or crimes against humanity, and payments to victims of international terrorism or domestic terrorism. The current inclusion of pension income and exclusions for social security benefits and other payments are recognized in lines 9 and 10 of each of Form 122A-1, Form 122B and Form 122C-1 in the statement of current monthly income under chapter

7, 11 and 13, respectively. The Subcommittee originally approved the proposed versions of those forms with the amended language that appears in the agenda book, but Professor Catherine Struve proposed revisions to some of the language to make it more comprehensible. After discussions with the reporters, the version of the language contained in the version of Form 122A-1 distributed at the meeting was agreed to with one exception. Judge Goldgar suggested replacing the words "the recipient" with the word "you" in two places in line 9. The Advisory Committee agreed.

The Advisory Committee, upon motion and vote, agreed to approve the amendments to the forms and committee note without publication as conforming changes, pursuant to the authority that the Judicial Conference granted to the Advisory Committee in March 2016, subject to later approval by the Standing Committee and and notice to the Judicial Conference.

8. Report by the Restyling Subcommittee

Judge Marcia Krieger, chair of the Subcommittee, and Professor Bartell provided the report. Judge Krieger thanked the AO staff and reporters for their work which made the work of the Subcommittee easier. The Subcommittee members also came to the conference call prepared and ready to comment. The Subcommittee has had two lengthy meetings by conference call and Skype to look at the restyled bankruptcy rules in Part I after the style consultants and the reporters worked out many issues between them on prior drafts. The reporters recently received an initial draft of the restyled rules in Part II, and have provided their comments to the style consultants. The reporters await their second draft which will be the basis of further discussion with the Subcommittee.

Our most important goal in this process is attempting to ensure that the changes made to the language of the rules do not alter the substance of the rules. The Subcommittee remains open to new approaches suggested by the style consultants, such as making references to specific forms in the rules where appropriate. The Subcommittee is also trying to be deferential about matters of pure style.

In addition, if the Subcommittee notes a substantive change that should be made in any rule, it is keeping a list for consideration at a later time by the Advisory Committee.

The Subcommittee still needs to discuss how to handle phrases the style consultants wish to modify that are used in the Code or defined in the Code, such as "small business case," "small business debtor," "health care business," and the like. The style consultants feel very strongly that these terms should be restyled in the rules. The Subcommittee is also attempting to reach a consensus on what terms and phrases are words of art or so-called sacred phrases that it believes

should be retained despite the fact that they are stylistically deficient, such as "meeting of creditors."

Information Items

9. Consideration of conforming amendments to Rule 8003 and Official Form 417A

Professor Gibson provided a report on the status of the Subcommittees'consideration of possible conforming amendments. The Advisory Committee on Appellate Rules has proposed amendments to FRAP 3(c) (Contents of the Notice of Appeal), which were published for public comment in August. The amendments are a response to a line of cases that treat a notice of appeal from a final judgment that mentioned one interlocutory order but not others as limiting the appeal to that order, rather than reaching all of the interlocutory orders that merged into the judgment. The Committee's goal in proposing the amendments is to reduce the inadvertent loss of appellate rights caused by the phrasing of a notice of appeal. Along with this rule change, the Appellate Rules Committee is also proposing an amendment to Appellate Form 1, which would split the notice-of-appeal form into two forms.

The Subcommittees were asked to recommend to the Advisory Committee whether Rule 8003 (Appeal as of Right—How Taken; Docketing the Appeal) and the bankruptcy notice-of-appeal form—Official Form 417A—should similarly be amended.

Unlike FRAP 3(c), Rule 8003(a)(3) does not specify the contents of a notice of appeal. Instead it requires substantial conformity with Official Form 417A. The reporter's research revealed only a few bankruptcy cases in which courts held that an appeal was limited to an order designated in the notice of appeal. Members of the Forms Subcommittee expressed concern that creating two notice-of-appeal forms for bankruptcy cases—one for appeals from judgments and the other for appeals from orders and decrees—would lead to confusion. It was pointed out that Rule 9001(7) defines "judgment" to mean "any appealable order," so there does not seem to be a basis for creating separate notices of appeal. While the wording of existing Official Form 417A might be revised in a manner similar to the proposed amendments to FRAP 3(c)(1)(B), the Subcommittee decided to wait until the spring to consider such changes so that it would have the benefit of the comments submitted in response to the publication of the FRAP 3(c) amendments.

The Appeals Subcommittee agreed with the Forms Subcommittee's decision to wait until spring – after it has seen the comments submitted on the FRAP amendments and learned the likely action to be taken by the Appellate Rules Advisory Committee -- to make a recommendation on whether to propose conforming amendments. Members of this

Subcommittee were not sure that the proposed amendments to Rule 8003 are needed for bankruptcy appeals.

The two subcommittees will make recommendations regarding any conforming changes to Rule 8003 and Official Form 417A at the spring meeting. Judge Campbell said the Advisory Committee should be careful about not taking action and potentially creating a trap for the unwary appealing in those jurisdictions that do not apply the merger rule.

10. Extension of the National Guard and Reservists Act of 2008

Professor Gibson provided a report.

In 2008 Congress enacted legislation that amended § 707(b)(2)(D) by adding a new subsection (ii) to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces.

In the years since the enactment of the 2008 legislation, Congress has extended the law's applicability on several occasions so that the exclusion has continued to remain in effect. On August 25 of this year, the President signed the National Guard and Reservists Debt Relief Extension Act of 2019, which makes the exclusion applicable to bankruptcy cases filed for four more years (15 years from the effective date of the 2008 act).

As a result, no changes are needed for Official Forms 122A-1 and 122A-1 Supp. The only changes needed for Interim Rule 1007-I are changes to its footnote to reference the most recent legislation and the extension conferred by that act. Those changes have been made.

11. Recommendations regarding suggestion 19-BK-D and 19-BK-J to amend Rule 7004(h)

Professor Bartell provided the report. George Weiss, an attorney in Potomac, MD, proposed in Suggestion 19-BK-D that Bankruptcy Rule 7004(h) should be amended by "importing the language of" Civil Rule 4(h) (permitting service of process on an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process) to replace the requirement that service be made on "an officer," but retaining the requirement that such service be made by certified mail.

Several suggestions have been made in recent years requesting amendments to Rule 7004(h), most recently in 2017, 17-BK-E, which requested inclusion of credit unions in the Rule. Bankruptcy Rule 7004(h) was enacted verbatim by Congress in Section 114 of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106. Because, under the Bankruptcy Rules

Enabling Act, 28 U.S.C. § 2075, bankruptcy rules cannot override statutory provisions, the Advisory Committee on Bankruptcy Rules lacks the authority to modify Rule 7004(h) in a manner that is inconsistent with federal statutes. Because the text of Rule 7004(h) is in fact statutory, an amendment that modifies that language in the manner suggested by Mr. Weiss is beyond the power of the Advisory Committee, whatever its substantive merits.

Mr. Weiss followed up his initial suggestion with two others. Rather than modifying the statutory language of the rule, he suggests first that the Advisory Committee supplement the rule with a new definition of "officer" to include a resident agent appointed to accept service of process. Although any insured depository institution can designate whomever it chooses as an "officer" of that institution, Professor Bartell expressed her view that it is not within the power of the Advisory Committee to interpret the term "officer" to include someone the institution has not so designated. She recommended no action be taken on this suggestion.

Mr. Weiss's second additional suggestion is that the Advisory Committee add an explanation of what the rule means when it requires certified mail "addressed to an officer of the institution." In particular, he would like the Advisory Committee to add a new provision in Rule 7004 specifying that any service made on an officer need not name the officer but rather can be addressed to "officer of [name of institution]."

This issue is not confined to Rule 7004(h); the same issue arises under the general service of process rule, Rule 7004(b)(3), with respect to service on corporations. Courts are divided on whether service is adequate if the officer is not named, both under Rule 7004(h) and under Rule 7004(b)(3). (Because Federal Rule of Civil Procedure 4(h)(1)(B) requires personal service, the issue does not arise outside of the bankruptcy context.)

This suggestion has not been considered by any subcommittee. The Advisory Committee saw some merit in pursuing this suggestion, and referred the suggestion to the Business Subcommittee to consider it and report back at the spring meeting.

12. Future meetings

The spring 2020 meeting will be in West Palm Beach, FL on April 2, 2020, and may be a two-day meeting. The fall 2020 meeting will be in Washington, D.C. on September 22, 2020.

13. New Business

There was no new business.

14. Adjournment

The meeting was adjourned at 1:35 p.m.

Proposed Consent Agenda

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

1. Forms Subcommittee

   (A) Recommendation of no action regarding suggestion 19-BK-C to amend Official Form 309 to list addresses for the debtor for the prior three years

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TAB 3A

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Item 3A will be an oral report.

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MINUTES
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
Meeting of January 28, 2020 | Phoenix, AZ

The Judicial Conference Committee on Rules of Practice and Procedure (Standing Committee or Committee) met in Phoenix, Arizona, on January 28, 2020. The following members participated in the meeting:

Judge David G. Campbell, Chair
Judge Jesse M. Furman
Daniel C. Girard, Esq.
Robert J. Giuffra, Jr., Esq.
Judge Frank Mays Hull
Judge William J. Kayatta, Jr.
Peter D. Keisler, Esq.
Professor William K. Kelley
Judge Carolyn B. Kuhl
Judge Gene E.K. Pratter
Elizabeth J. Shapiro, Esq.*
Judge Srikanth Srinivasan
Kosta Stojilkovic, Esq.
Judge Jennifer G. Zipps

*Elizabeth J. Shapiro, Deputy Director, Federal Programs Branch, Civil Division represented the Department of Justice (DOJ) on behalf of the Honorable Jeffrey A. Rosen, Deputy Attorney General.

The following attended on behalf of the advisory committees:

Advisory Committee on Appellate Rules –
Judge Michael A. Chagares, Chair (by telephone)
Professor Edward Hartnett, Reporter

Advisory Committee on Bankruptcy Rules –
Judge Dennis R. Dow, Chair
Professor S. Elizabeth Gibson, Reporter
Professor Laura Bartell, Associate Reporter

Advisory Committee on Criminal Rules –
Judge Raymond M. Kethledge, Chair
Professor Sara Sun Beale, Reporter
Professor Nancy J. King, Associate Reporter

Advisory Committee on Civil Rules –
Judge John D. Bates, Chair
Professor Edward H. Cooper, Reporter
Professor Richard L. Marcus, Associate Reporter

Advisory Committee on Evidence Rules –
Judge Debra Ann Livingston, Chair
Professor Liesa L. Richter, Consultant

Others providing support to the Committee included: Professor Catherine T. Struve, the Standing Committee's Reporter (by telephone); Professor Daniel R. Coquillette (by telephone), Professor Bryan A. Garner, and Professor Joseph Kimble, consultants to the Standing Committee; Rebecca A. Womeldorf, the Standing Committee's Secretary (by telephone); Bridget Healy (by telephone), Scott Myers, and Julie Wilson, Rules Committee Staff Counsel; Allison A. Bruff, Law Clerk to the Standing Committee; and John S. Cooke, Director, and Dr. Tim Reagan, Senior Research Associate, of the Federal Judicial Center (FJC).

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OPENING BUSINESS

Judge Campbell called the meeting to order and welcomed everyone to Phoenix, Arizona. This meeting is the last for Judge Srikanth Srinivasan, who in a few weeks will become the Chief Judge of the U.S. Court of Appeals for the District of Columbia. Judge Campbell thanked Judge Srinivasan for his contributions as a member of the Committee and wished him well in this new assignment. Judge Campbell welcomed three new members of the Standing Committee: Judge Gene Pratter, Kosta Stojilkovic, and Judge Jennifer Zipps. Judge Campbell also welcomed Judge Raymond Kethledge, who began his tenure as Chair of the Criminal Rules Advisory Committee last October. Judge Campbell noted the addition of a new member of the Rules Committee Staff, Brittany Bunting. Judge Campbell also recognized Julie Wilson, Rules Committee Staff Counsel, for reaching the milestone of 15 years of service with the federal government.

Scott Myers reviewed the status of proposed rules amendments proceeding through each stage of the Rules Enabling Act process and referred members to the tracking chart in the agenda book. The chart includes the rules that went into effect on December 1, 2019. The chart also shows the interim Bankruptcy Rules that have been recommended for adoption as local rules with an effective date of February 19, 2020. Also included are the rules approved by the Judicial Conference in September 2019 and transmitted to the Supreme Court. These rules are set to go into effect on December 1, 2020, provided the Supreme Court approves them and Congress takes no action to the contrary.

Judge Campbell asked the judge members of the Committee if they had occasion in their courts to address new Criminal Rule 16.1, which went into effect on December 1, 2019. No judge member had yet addressed Criminal Rule 16.1. Judge Campbell observed that it would be good to raise awareness about the new Rule. He noted that he had occasion in a recent trial to apply the amended version of Evidence Rule 807, which also took effect last December, and found it much easier to apply than its predecessor. Judge Campbell also noted that the pending amendment to Evidence Rule 404(b) would have been helpful in a recent case, if it had been in effect.

APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETING

Upon motion by a member, seconded by another, and on a voice vote: **The Committee approved the minutes of the June 25, 2019 meeting.**

REPORT ON MULTI-COMMITTEE ITEMS

Judge Chagares, Chair of the Appellate Rules Advisory Committee, reported on the E-Filing Deadline Joint Subcommittee which was formed to analyze whether e-filing deadlines should be earlier than midnight. One key question under study is whether the midnight deadline negatively affects quality of life, particularly for young associates and staff. The subcommittee's consideration of e-filing deadlines is in part inspired by filing rules in Delaware. The rules in Delaware state court were amended effective September 2018 to provide for a 5:00 p.m. (ET) electronic-filing deadline. This accorded with similar local provisions in the District of Delaware that provide for a 6:00 p.m. (ET) electronic-filing deadline. The subcommittee has solicited

comments from the American Bar Association, paralegal and legal assistant associations, and law schools. The first public suggestion on this e-filing proposal voicing support for the proposal was received at 1:48 a.m. on the morning of the Appellate Rules Advisory Committee's fall meeting.

Professor Cooper, Reporter to the Civil Rules Advisory Committee, reported on the Appeal Finality After Consolidation Joint Civil-Appellate Subcommittee. The subcommittee was formed to consider the implications of the Supreme Court's holding in *Hall v. Hall*, 138 S. Ct. 1118 (2018), that consolidation under Civil Rule 42(a) of originally-separate lawsuits does not merge those lawsuits for purposes of 28 U.S.C. § 1291's final-judgment rule. The *Hall v. Hall* Court suggested that, if this holding created any problems, the Rules Enabling Act process would be the right way to address them. Dr. Emery Lee of the Federal Judicial Center is undertaking a deep review of cases filed in 2015-2017. Those cases were filed, but may or may not have gone to final disposition, before the Court's decision in *Hall v. Hall*; it may be necessary to expand the period of study to include cases filed in three subsequent years.

Judge Chagares reported on a proposal, concerning the computation of deadlines, that was considered by the Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules at their respective fall 2019 meetings. The proposal came from Sai, who has submitted helpful rules suggestions over the years. Sai proposed a rule that would require courts to calculate all deadlines and tell the parties the dates of those deadlines. The committees recognized that such a practice would be helpful to litigants, particularly to pro se litigants, but concluded that it would be impracticable, and unduly burdensome, to task the courts with such a duty. Accordingly, the advisory committees have removed this proposal from their agendas.

Professor Hartnett, Reporter to the Appellate Rules Advisory Committee, described the advisory committees' consideration of another suggestion submitted by Sai. The standards for *in forma pauperis* (i.f.p.) status currently vary across districts, and Sai proposes replacing those varying standards with a nationally uniform one. Sai also raised concern about the Administrative Office forms that courts use to gather information bearing on i.f.p. status; Sai argues that some questions on these forms are ambiguous and/or unduly intrusive. After the advisory committees considered this proposal at their fall 2019 meetings, the Civil Rules Committee removed the proposal from its agenda, but the Appellate Rules Committee retained the proposal on its agenda, and the Criminal Rules Committee expressed the intention to follow the other committees' lead on the matter. The Appellate Rules Committee's interest in this item, Professor Hartnett explained, stemmed partly from the fact that – unlike the other sets of national Rules – the Appellate Rules have an official Form (Form 4) dealing with requests to proceed i.f.p. in the courts of appeals. Further, Supreme Court Rule 39 directs that litigants use Form 4 when seeking i.f.p. status in the Supreme Court. A participant asked why the Civil Rules Advisory Committee had removed the item from its agenda. Judge Bates, the Chair of that committee, explained that although the committee recognized the potential problems with the variation in standards for i.f.p. status, it could not see how to establish a workable single standard for 94 districts given the variety of financial circumstances across the districts. But, he noted, the Civil Rules Advisory Committee referred the forms questions raised by Sai to the Administrative Office, the entity that maintains certain district-court forms (including Forms AO 239 and 240 concerning requests for i.f.p. status). Professor Cooper, Reporter to the Civil Rules Advisory Committee, noted that that committee did not have occasion to reach questions relating to the scope limitation set by the Rules Enabling Act

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– i.e., whether rulemaking on eligibility for i.f.p. status would alter substantive rights. Professor Cooper further questioned the feasibility of establishing a nationally uniform i.f.p. standard in light of regional variations in the cost of living.

REPORT OF THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

Judge Campbell prefaced the report by the Bankruptcy Rules Advisory Committee by thanking that committee for its admirably quick action in preparing interim rules and forms to implement the Small Business Reorganization Act of 2019 (SBRA). Judge Dow in turn commended Professor Gibson and Scott Myers, who took the lead in that project; he noted that the courts have already expressed appreciation for the interim rules and forms. Judge Dow and Professors Gibson and Bartell then delivered the report of the committee, which last met on September 26, 2019, in Washington, DC. The Advisory Committee presented one action item and two information items.

Action Item

Official Form Amendments Made to Implement the HAVEN Act. The Honoring American Veterans in Extreme Need Act (HAVEN Act) of 2019 became effective on August 23, 2019. The HAVEN Act was designed to exclude certain benefits paid to veterans or servicemembers (or their family members) from the Bankruptcy Code's definition of "current monthly income." A debtor's "current monthly income" is used in means testing computations to determine the debtor's eligibility for bankruptcy relief. Professor Bartell explained that the HAVEN Act does not affect the Bankruptcy Rules; however, its provisions require changes to three official forms: Official Forms 122A-1 (Chapter 7 Statement of Your Current Monthly Income), 122B (Chapter 11 Statement of Your Current Monthly Income), and 122C-1 (Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period). The Advisory Committee approved the amended forms and recommends that the Standing Committee retroactively approve (and provide notice to the Judicial Conference concerning) the amendments to the three official forms.

Professor Struve, Reporter to the Standing Committee, commended Professor Bartell and Scott Myers for their work on these forms.

Upon motion, seconded by a member, and on a voice vote: **The Committee decided to retroactively approve the technical and conforming amendments to Official Forms 122A-1, 122B, and 122C-1, and to provide notice to the Judicial Conference.**

Information Items

Interim Rules and Official Forms to Implement the SBRA. The SBRA will go into effect on February 19, 2020. It creates a new subchapter V of chapter 11 of the Bankruptcy Code and provides an alternative to the current reorganization path for small businesses. Professor Gibson explained that the SBRA requires amendments to a number of Bankruptcy Rules and Forms. Because the SBRA will go into effect before the rules amendments could make it through the full Rules Enabling Act process, the Advisory Committee voted to have the amendments issued as

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interim rules for adoption as local rules or by standing orders in each of the districts. The Advisory Committee modeled its approach on an expedited process followed in 2005 when interim rules were needed to respond to the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

At its fall 2019 meeting, the Advisory Committee discussed the proposed draft interim rules and forms and voted to seek approval for their publication for public comment. (There were some post-meeting revisions to the package, and the Advisory Committee approved those revisions by email vote in October 2019.) The resulting eight proposed interim rules and nine official forms were, in turn, approved for publication by the Standing Committee (by email vote). The package was published for four weeks during October and November 2019. The Advisory Committee received seven relevant comments, which provided helpful suggestions. In response, the Advisory Committee made some revisions to the published package and also approved a few interim changes that had not been published – namely, revisions to four additional rules and the issuance of a new rule. By an email vote that concluded in December 2019, the Advisory Committee unanimously decided to recommend the issuance of thirteen interim rules. It also approved nine new or amended official forms. The Advisory Committee approved the official forms pursuant to its delegated authority from the Judicial Conference to issue conforming or technical official form amendments subject to later approval by the Standing Committee and notice to the Judicial Conference. By email vote in December 2019, the Standing Committee unanimously approved the issuance of the rules as interim rules and approved the promulgation of the forms. Judges Campbell and Dow subsequently requested the Executive Committee of the Judicial Conference to act on an expedited basis on behalf of the Judicial Conference to authorize distribution of the interim rules to the districts for adoption as local rules. The Executive Committee unanimously approved the request. Judges Campbell and Dow sent a memorandum to all chief judges of district courts and bankruptcy courts requesting local adoption of the interim rules to implement the SBRA until rulemaking under the Rules Enabling Act can take place. At its spring 2020 meeting, the Advisory Committee will begin the process for the issuance of permanent rules. Professor Gibson indicated that the Advisory Committee expects to bring to the Standing Committee's June 2020 meeting a request for approval for publication of permanent rules and forms.

Judge Dow commended the efforts of all involved in finalizing interim Bankruptcy Rules to be adopted by the districts as local rules in response to the SBRA.

Bankruptcy Rules Restyling. Professor Bartell remarked that the restyling process is going well. The style consultants have provided drafts of Parts I and II of the Bankruptcy Rules. The Restyling Subcommittee, reporters, and style consultants have exchanged different views on some changes to Part I. Professor Bartell noted that they are close to the point of finalizing Part I. The subcommittee has three meetings scheduled in the next six weeks to discuss the draft of Part II. The subcommittee expects to present final drafts of Parts I and II to the Advisory Committee at its spring 2020 meeting and, if approved, to request permission to publish from the Standing Committee at its mid-year meeting. Professor Bartell commended the style consultants for their wonderful work on these rules. The subcommittee is thrilled with what it is receiving from the style consultants and thinks that everyone involved in bankruptcy practice will be pleased with the restyled rules.

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Judge Campbell noted that the restyling endeavor will be a multiyear effort and has gone very well over the past year. He commended Judge Krieger for her work chairing the subcommittee. Judge Dow thanked the style consultants, Professor Bartell, and Judge Krieger for their work throughout this process. In response to a question about the anticipated publication process, Judge Dow explained that the Advisory Committee intends to seek publication in stages but will hold all restyled rules for final approval and adoption at one time. Judge Dow expects that Parts I and II will be ready to present to the Standing Committee at the Standing Committee's June meeting.

REPORT OF THE ADVISORY COMMITTEE ON APPELLATE RULES

Judge Chagares and Professor Hartnett provided the report of the Appellate Rules Advisory Committee, which last met on October 30, 2019, in Washington, DC. The Advisory Committee presented several information items.

Rule 3 (Appeal as of Right — How Taken) and Conforming Amendments to Rule 6 and Forms 1 and 2. Proposed amendments to Appellate Rules 3 and 6 and Forms 1 and 2 are out for public comment. The Advisory Committee has received few comments thus far. The Advisory Committee has been considering this project since fall 2017, and its work finds new support in the Supreme Court's recent decision in *Garza v. Idaho*, 139 S. Ct. 738 (2019), in which the Court stated that the filing of a notice of appeal should be a simple, non-substantive act. After identifying inconsistencies among different jurisdictions in how notices of appeal are treated, the Advisory Committee proposed rule amendments to reduce inadvertent loss of appellate rights by the unwary. The Advisory Committee expects to seek final approval of the amended rules and forms from the Standing Committee at its mid-year meeting.

Professor Hartnett explained that some litigants have mistakenly believed that they must designate every order they wish to challenge on appeal. The proposed amendment to Appellate Rule 3 would alert readers to the merger principle without trying to codify it. It would also add a provision stating that a notice of appeal encompasses the final judgment as long as it designates "an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties" or an order described in Appellate Rule 4(a)(4)(A) — i.e., an order disposing of the last remaining motion of a type that restarts the time to take a civil appeal. The rule leaves open the ability for litigants to deliberately and expressly limit the scope of the notice of appeal. "Without such an express statement, specific designations do not limit the scope of the notice of appeal." The proposed amendment to Appellate Rule 6 is simply a conforming amendment. The forms amendments reflect, among other things, the distinction between appeals from final judgments and appeals from other appealable orders. Professor Hartnett noted that courts continue to issue decisions that underscore the importance of these amendments. He described a recent decision in which a litigant filed a notice of appeal designating both a specific summary judgment ruling and the final judgment, "as well as any and all rulings by the court." The court concluded that because there had been a specific designation, the notice of appeal did not encompass orders that it did not list.

Professor Hartnett also noted that the Advisory Committee had received two public comments on the proposed amendments — one supportive and one critical. The main critique of

the proposed amendments stems from the language in proposed Appellate Rule 3(c)(5)(A), which refers to an order that adjudicates "all **remaining** claims and the rights and liabilities of all remaining parties." In contrast, Civil Rule 54(b) omits the word "remaining" and refers to "a judgment adjudicating all the claims and all the parties' rights and liabilities." In the commenter's view, there is not a final judgment until some document is entered that recites the disposition of all claims, not just the remaining claims. The premise of the proposed amendment is contrary to that: once the last remaining claim is resolved, there is a final judgment. The Advisory Committee unanimously supported this approach, which is in accord with leading treatises on federal practice and procedure.

One member inquired as to the purpose behind proposed Rule 3(c)(6), which would allow a litigant to designate a specific part of a judgment or appealable order and expressly exclude others from the scope of the notice of appeal. Professor Hartnett explained that it may sometimes be beneficial for a litigant to limit the scope of their notice of appeal. For example, a litigant may want to appeal an adverse ruling as to one party, without wishing to appeal the court's determinations as to other parties.

Another member asked if the language in subparagraph (5)(A) — "the rights and liabilities of all remaining parties" — creates tension with Civil Rule 58(e), which sets a default rule that an outstanding request for costs and/or fees does not prevent a judgment from becoming final for appeal purposes. The member suggested deleting "the rights and liabilities of all remaining parties" if it is not necessary to the proposed rule. Professor Struve responded that she understood this phrase to be a reference to the language in Civil Rule 54(b) — "the rights and liabilities of fewer than all the parties." Professor Cooper suggested that adding the "remaining" language in Appellate Rule 3(c)(5)(A) has the advantage of making clear that a final judgment need not indicate all claims that may have been previously disposed of. Judge Campbell inquired whether the language "all remaining claims" — without referencing rights and liabilities — would suffice. Professor Hartnett explained that the impetus behind including "rights and liabilities" in the new language was to integrate Appellate Rule 3(c) with Civil Rule 54(b). Professor Cooper noted that "claim" is a word with multiple meanings. He observed that the language in Rule 54(b) has existed for a very long time. It would be better, he suggested, for Rule 3(c) not to emphasize the word "claim" standing alone.

A member raised a related question regarding attorney's fee applications and whether this proposed rule might alter current law under which, as noted, Civil Rule 58(e) sets a default rule that a pending fee application does not prevent a judgment from becoming final for appeal purposes. It was suggested, though, that the same tension currently exists between Civil Rule 58(e) and Civil Rule 54(b). A member noted that Civil Rule 54(b) uses "claims *or* the rights and liabilities" while the proposed language of Appellate Rule 3(c)(5)(A) uses "claims *and* the rights and liabilities." This member suggested that the disjunctive / conjunctive distinction may be significant. Judge Chagares and Professor Hartnett indicated that the Advisory Committee will continue to consider these issues.

Rule 42 (Voluntary Dismissal). Proposed amendments to Rule 42 are out for public comment. Judge Chagares explained that during the restyling of the Appellate Rules, the phrase "may dismiss" replaced the phrase "shall … dismiss[]" in Rule 42(b)'s language addressing the

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dismissal of an appeal on agreement of the parties. The concern addressed by the proposed amendment stems from the apparent discretion the current rule would give to the courts of appeal not to dismiss an appeal despite the parties' agreement that it should be dismissed. The amendment would change the relevant "may dismiss" to "must dismiss" in what would become the Rule's subdivision (b)(1). In addition, the Advisory Committee restructured Rule 42(b) for overall clarity and added a subdivision (c) to clarify that the rule does not alter the legal requirements governing court approval of settlements. The Advisory Committee has received no comments on this proposed rule change and expects to seek final approval from the Standing Committee at its mid-year meeting.

Rules 35 (En Banc Determination) and 40 (Petition for Panel Rehearing). Judge Chagares explained that the Advisory Committee has engaged in a comprehensive review of these two rules. Amendments to Rule 35 and 40 that set length limits for responses to petitions for rehearing are on track to take effect on December 1, 2020, if the Supreme Court approves them and Congress takes no contrary action. Apart from those pending amendments, Judge Chagares noted that while the Advisory Committee has not received any complaints about the rules, small changes to harmonize the two rules may be beneficial if unintended consequences can be avoided. Professor Hartnett noted that the benefits of a rewrite of these rules must be balanced against the risk of disrupting current practice. The Advisory Committee's consideration of further potential amendments has thus narrowed and is presently focused on two items. First, the Advisory Committee seeks to underscore the difference between the standards for en banc and panel rehearing. Second, it is reassessing the interaction between petitions for panel rehearing and petitions for *en banc* rehearing, particularly given that the procedures are governed by two separate rules. A review of local rules and internal operating procedures of various circuits revealed a widespread practice of treating an *en banc* petition as including a request for panel rehearing. The Advisory Committee is also considering ways to ensure that a panel cannot block litigants from seeking rehearing en banc (the concern focuses on instances when a panel makes changes to its decision and states that no further petitions for rehearing en banc will be permitted). A related question concerns whether post-panel-rehearing *en banc* petitions should be limited to instances when the panel changes the substance of its initial decision.

One member expressed a view that a qualifier based on "changes to substance" should not be included in any potential amendments to Rules 35 and 40. Even changes that may seem small and stylistic, he argued, can have big effects. The member emphasized that timely-filed petitions for panel rehearing or rehearing *en banc* affect the time for filing petitions for a writ of certiorari. That makes it especially important for the rules governing rehearing petitions to operate mechanically, so that litigants will be able to forecast reliably whether a rehearing petition will suspend the deadline to petition for certiorari. The same member observed that one proposed addition — the statement in proposed new Rule 35(b)(4) that if the Rule 35(b)(1) criteria for rehearing en banc are not present, "panel rehearing pursuant to Rule 40 may be available" — would be more appropriate in a committee note rather than in rule text. Another member asked if subdivision (b)(5) of the proposal should explicitly limit a second petition for rehearing *en banc* to those petitions that are directed toward the changes made by the panel after the initial petition for rehearing. Professor Hartnett suggested, though, that in a petition after the panel changes its decision, a party might also want to address changes that were requested but not made. For

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instance, a panel's revised decision might cite a supervening Supreme Court precedent without sufficiently addressing the import of that new precedent.

Rule 25 (Filing and Service) and Privacy in Railroad Retirement Act Benefit Cases. In response to a suggestion from the Railroad Retirement Board's General Counsel, the Advisory Committee has been considering whether privacy protections afforded Social Security benefits cases under Civil Rule 5.2(c) and Appellate Rule 25(a)(5) should be extended to Railroad Retirement Act benefits cases. Judge Chagares noted the similarity between Social Security and Railroad Retirement Act benefits programs. Unlike Social Security cases, however, Railroad Retirement Act benefits cases go directly to the courts of appeal on petition for review. The Advisory Committee is considering whether other types of benefits cases likewise go directly to the courts of appeals for review and implicate similar privacy concerns. Professor Hartnett added that the Judicial Conference Committee on Court Administration and Case Management (CACM) has not objected to the Advisory Committee pursuing a possible rules amendment in this context.

A member suggested that this may become a slippery slope; he noted that ERISA and disability claims cases often involve the same kind of private personal information. Judge Campbell responded that the current proposal arose because the Railroad Retirement Board brought the suggestion to the advisory committee's attention. And the likelihood that the Appellate Rules would need to address many similar instances is low, given that the goal here is to address instances where an agency decision in a benefits case goes directly to the court of appeals. (In proceedings where agency review is initiated in the district court, Professor Hartnett observed, the Appellate Rules piggyback on the Civil Rules' privacy approach.)

Another member asked whether the draft language "of a benefits decision of the Railroad Retirement Board" is needed – why not just say "a petition for review under the Railroad Retirement Act"? Civil Rule 5.2(c) applies to "action[s] for benefits under the Social Security Act," but the rule language does not specify "a benefits decision by the Social Security Administration." Professor Hartnett responded that there may be other types of Railroad Retirement Board decisions that are subject to review under the Railroad Retirement Act; he promised to check with the Board's General Counsel.

Another member wondered what systems exist for protecting private information in review proceedings under the Longshore and Harbor Workers' Compensation Act and the Black Lung Act and whether those same systems should also suffice to protect privacy in review proceedings under the Railroad Retirement Act. Professor Hartnett explained that the ordinary mechanism available in any case would be a motion to seal. Railroad Retirement Act benefits cases are distinctive because they are essentially Social Security benefits cases for railroad workers; it would be very hard to address privacy concerns in such cases through standard redaction procedures. Judge Chagares added that the committee had not found any other types of proceedings that are as similar (as Railroad Retirement Act benefits cases are) to Social Security benefits cases.

Professor Bartell expressed concern about adding "privacy" to the draft amendment of Appellate Rule 25(a)(5). She noted that if the rule extended only the "privacy provisions" of Civil Rule 5.2(c)(1) and (2) to Railroad Retirement Act cases, it would raise questions about which parts of Civil Rule 5.2(c) are being incorporated.

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Suggestion Regarding Decision on Grounds Not Argued. The Advisory Committee is considering a suggestion submitted by the American Academy of Appellate Lawyers. This suggestion would require a court of appeals, if contemplating a decision based on grounds not argued, to provide notice and an opportunity to brief that ground. Judge Chagares formed a subcommittee to consider this issue. The threshold question whether this suggestion is appropriate for rulemaking, or more appropriate as a subject of best practices. A member commented that, in addition to the difficulty of defining "grounds not argued," the suggested rule amendment may not accomplish anything that litigants could not already achieve through petitions for rehearing.

Suggestion Regarding "Good Cause" Definition for an Extension of Time to File a Brief. The Advisory Committee received a suggestion to specify criteria for finding "good cause" for an extension of time to file a brief. Judge Chagares noted that the term "good cause" appears multiple times in the Appellate Rules and Civil Rules. The Advisory Committee agreed that a good-cause determination depends on many factors and that no bright-line definition would be desirable. The Advisory Committee removed this item from its agenda.

REPORT OF THE ADVISORY COMMITTEE ON CIVIL RULES

Judge Bates and Professors Cooper and Marcus provided the report of the Civil Rules Advisory Committee, which last met on October 29, 2019, in Washington, DC. The Advisory Committee presented several information items, including reports on behalf of its Social Security Disability Review and Multidistrict Litigation (MDL) subcommittees.

Information Items

Social Security Review Subcommittee. Judge Bates explained that the subcommittee was formed in response to a suggestion submitted by the Administrative Conference of the United States (ACUS). ACUS proposed the adoption of national rules governing district-court review of Social Security Administration decisions, in order to provide greater uniformity and to recognize the appellate nature of such review. The subcommittee has prepared drafts that illustrate possible alternative approaches that a national rule could take. One approach would create a new rule within the Civil Rules; the other would create a new set of supplemental rules. Each of the draft alternatives is more modest than the original suggestion.

Judge Bates explained that the subcommittee and Advisory Committee have again returned to the initial question: whether to embark on this project, notwithstanding the usual preference for keeping the Rules trans-substantive. Beyond trans-substantivity, there are other competing concerns. Some reasons to create special rules for Social Security cases include the support from ACUS and the Social Security Administration, the modesty of the proposal, a preference for uniformity in procedure across districts, and the volume and uniqueness of Social Security cases. Countervailing considerations (in addition to the concerns about substance-specific rulemaking) include the opposition by plaintiffs' organizations and the DOJ, the likelihood that a national rule would not displace all the variations created by local rules, and a question as to the appropriateness of adopting rule amendments in order to address problems that may relate more closely to the insufficiency of agency funding. Judge Bates also emphasized the trans-substantivity concerns.

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Uniformity in federal procedures is a laudable goal of the Rules Enabling Act. Judge Bates recognized the concern about carving out categories of cases for specific rules and the risk of favoritism that poses. He noted that the subcommittee considered whether rules should be created that focus more broadly on cases that — like Social Security cases — are based on an administrative record. Such a broad undertaking would be difficult to achieve, given the variety of agencies and matters that come to the district court for review.

Professor Coquillette remarked that the Rules Committees have received numerous requests to carve out special rules over the years, and Congress has at times seemed inclined to carve out particular categories like patent cases and class actions for special rules. If the Advisory Committee moves forward with a proposal, Professor Coquillette suggested that it should create a supplemental set of Social Security rules, rather than a new Civil Rule.

A member expressed the view that the Rules Committees picking specific areas and carving out special rules could be problematic; that might be a task to which Congress is better suited. A different member suggested that this issue ties in with broader issues about specialized courts.

Several judge members expressed support for the proposal. There is a gap in the rules with regard to these types of actions, and the proposal would provide a practical solution. Regarding trans-substantivity concerns, one noted that the federal courts already use local rules to create substance-specific rules for special types of cases. Professor Cooper observed that district judges plainly have authority to establish practices that go beyond the Rules Enabling Act's scope in the course of deciding cases. The question of the appropriate scope of local rules is more difficult. 28 U.S.C. § 2071(a) says only that local rules "shall be consistent with" any national rules promulgated under the Rules Enabling Act. Does the fact that varying local rules now address a topic justify the adoption of national rules on that topic?

Judge Campbell observed that this is a unique situation in which a government agency has asked the Rules Committees to address a problem. The subcommittee has done a great job and has identified some possible rules that could address inefficiencies in the current system. This stands as a compelling argument in favor of rulemaking. While trans-substantivity is a countervailing concern, the Rules Committees have already crossed that bridge with respect to, for example, admiralty cases and habeas proceedings. Social security cases constitute a large part of the courts' dockets, and the matter is important to a government agency, and these considerations may outweigh the concerns about substance-specific rulemaking. Judge Campbell also expressed his view that the proposal is even-handed and would simplify procedures for all parties. The main question at present is whether to publish a proposal. Judge Campbell added that he favored publication for comment.

A member echoed Judge Campbell's comments, noting that the presumption against substance-specific rules can be overcome. The opposition by the claimants' bar and DOJ, this member suggested, should not be dispositive here because their reasons for opposition do not go to the heart of the problem. The claimants' side argues that a uniform rule will displease judges. If that is the case, it is unclear how that would disadvantage only claimants. The DOJ cites trans-substantivity concerns. The Rules Committees can decide the trans-substantivity question on their

own. In this member's view, the proposal would be beneficial and streamline the process through modest improvements without favoring either side. Another member agreed.

A different member asked about the feasibility of a pilot project with this proposal. Professor Cooper explained that the DOJ has crafted a model rule and offered it to district courts as a suggested local rule (though this is not a formal pilot project). Further, the subcommittee has sought input from magistrate and district judges on how the rules work in Social Security cases. The general feedback is that the Civil Rules do not fit Social Security cases and that the proposed national rule reflects what judges are already doing and would be helpful. Judge Campbell agreed that the proposal parallels what many districts are already doing.

A judge member voiced support for publishing the proposal for public comment. The same member asked if the subcommittee had considered drafting a best-practices guide instead of a rule amendment. This member also noted that, in her district, magistrate judges are tasked with handling Social Security review proceedings. Judge Bates responded that the subcommittee continues to consider a best-practices approach but that it currently views a rule amendment as preferable. He also observed that the proposed rule would not affect how districts structure the handling of Social Security disability review cases.

Professor Coquillette agreed that the proposal should be published for comment and reiterated his support for the supplemental set of rules instead of a new Civil Rule.

A judge member observed that he shared the general concern over trans-substantivity. Based on the proliferation of local rules related to Social Security cases, however, trans-substantivity does not seem to be as much of a concern. The question then is whether to pursue uniformity by means of a national rule.

Subcommittee on Multidistrict Litigation. Judge Bates stated that the subcommittee has focused primarily on four areas: third-party litigation funding (TPLF); early vetting of claims through the use of plaintiff fact sheets (PFS) and defendant fact sheets (DFS); interlocutory review in MDL cases; and judicial involvement in the settlement process and review.

The Advisory Committee decided to remove TPLF from the subcommittee's agenda (as this phenomenon is not unique to or especially prevalent in MDL cases) and has returned it to the Advisory Committee for monitoring.

The subcommittee continues to study "early vetting" as a tool to winnow unsupportable claims and jump start discovery. The subcommittee has concluded that plaintiff fact sheets — and defense fact sheets, secondarily — are used in virtually all "mega" tort MDLs and in most other large MDL proceedings, particularly personal injury MDLs. Because plaintiff fact sheets take a lot of time to develop, a simpler practice called "census of claims" has emerged. All groups involved think this is a worthwhile approach to examine. While it gathers less information, the census of claims practice seems to serve very valuable purposes. Several transferee judges are using this approach in current MDL proceedings.

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The issue of interlocutory review in MDL proceedings is under active assessment. The subcommittee is considering whether existing procedural mechanisms, chiefly 28 U.S.C. § 1292(b), provide adequate interlocutory appellate review of certain MDL orders. Judge Bates highlighted the subcommittee's study of Judge Furman's order in *In Re: General Motors LLC Ignition Switch Litigation*, No. 14-MD-2543 (SDNY 2019), which granted a party's request for certification of an interlocutory appeal under § 1292(b). Judge Bates explained the difficulty of drafting a rule amendment that would expand options for interlocutory review only to certain kinds of MDLs, or to specific subject matters such as preemption or *Daubert* rulings. The subcommittee continues to consider these questions in the context of possible rule amendments.

The subcommittee also continues to consider the issue of judicial supervision in the MDL settlement process and settlement review. Judge Bates explained that the subcommittee is considering whether this issue is appropriate for rulemaking and whether any such rule should be limited to a certain subset of MDLs. While the academic community has expressed support for greater judicial involvement in MDL settlements, neither the bar nor transferee judges share that position. Judge Bates noted that this is an ongoing effort, and the subcommittee is in the early stages. One member, citing his MDL experience in which courts have been heavily involved, inquired whether there is a need for more judicial involvement in the settlement process. Judge Bates clarified that the subcommittee is looking at non-class-action MDLs where the rules do not offer the same mechanism for judicial involvement as under Civil Rule 23.

A judge member expressed the view that rulemaking may not always be appropriate in the MDL context. It would be difficult to carve out a category of MDL cases to which certain rules should apply. Flexibility in MDLs is preferable to a one-size-fits-all approach. Rather than rulemaking, this member suggested, it would be better to promote best practices through guidance from, for example, the Judicial Panel on Multidistrict Litigation (JPML) and the Manual for Complex Litigation. Of the topics under study, this member suggested, the best candidate for rulemaking would be interlocutory appeals; Section 1292(b) is not a good fit for MDLs.

Another member suggested that this is an area where some rulemaking would be helpful because procedural decisions can have huge substantive implications in MDL proceedings. In this member's experience, large MDLs usually result in settlement. Judicial management and decisions regarding interlocutory appeal have a massive impact on the outcome. As to addressing judicial involvement in the settlement process, however, this member suggested a need for caution.

A different member emphasized that in the mass tort MDL context, Civil Rule 23 brings with it a lot of jurisprudence that gives some backbone as to the roles of lead attorneys. The American Law Institute's project on aggregate litigation provides guidance on what ethical obligations lead attorneys have regarding settlement when representing large groups of clients. This member agreed with the earlier comment that some of these issues go beyond the role of procedure and may not be appropriate for rulemaking. In addition, creating a rule for interlocutory review in MDL proceedings may prolong these cases even further. This would cause practical concerns for clients.

A member noted that, in his experience in the Second Circuit, requests for interlocutory review under § 1292(b) are rarely granted. He asked how different courts are treating these

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requests. Professor Marcus explained that the difficulty is finding all the cases in which these requests are made but denied. Judge Bates added that the subcommittee hears anecdotally that certain circuits never grant § 1292(b) requests, but clear data are not readily available to support or contradict these comments. A judge member noted that his research revealed little as far as cases dealing with when it is appropriate to grant § 1292(b) requests in MDL cases.

Another judge member commented that the JPML makes available a very fine body of resources for case management. She asked whether the JPML has a view regarding the need for rulemaking. Regarding interlocutory appeals, this member noted that added delay presents a real concern from a case management perspective.

Rule 4(c)(3) – Service by the U.S. Marshals Service. Professor Cooper explained that present language in Civil Rule 4(c)(3) creates an ambiguity by stating both "the court may order" service by a marshal at the plaintiff's request and "[t]he court must so order if the plaintiff" has i.f.p. status. One plausible interpretation is that if a plaintiff is granted i.f.p. status, then the court must order service by a marshal. A second interpretation is that the court's obligation to order service by a marshal is contingent on the plaintiff making a motion. If the rule were amended to remove the ambiguity, the amended rule could adopt either of these approaches, or it could instead adopt a different approach that would direct service by a marshal on behalf of any i.f.p. litigant even when the court does not order the marshals to effect service. The Advisory Committee is in discussions with the U.S. Marshals Service and the Administrative Office regarding possible solutions.

Judge Campbell stated that the staff attorneys in his court confirmed that 100% of prisoner pro se complaints that survive initial screening by the court under 28 U.S.C. § 1915A are served by a marshal, and about 50% of non-prisoner pro se cases are served by a marshal. In the other 50% of non-prisoner pro se cases, Judge Campbell noted that the plaintiffs effect service by other means. This suggests that there is a significant portion of cases where the marshals are not needed.

Rule 12(a) – Filing Times and Statutes. Judge Bates explained that the Advisory Committee has begun looking at Civil Rule 12(a), which sets the time to serve a responsive pleading. The general provision under paragraph (1) — setting the presumptive time at 21 days — includes the qualifying statement: "Unless another time is specified by this rule or a federal statute[.]" The Advisory Committee is considering whether the same qualifier should be added to paragraphs (2) and (3), which apply to the United States and its officers or employees. Judge Bates noted that the Freedom of Information Act sets a 30-day response time, which may apply to cases otherwise governed by Rule 12(a)(2). The Advisory Committee will discuss this issue more in-depth at its spring meeting.

Matters Removed from the Agenda. Judge Bates identified items that the Advisory Committee removed from its agenda after consideration. These items relate to expert witness fees in discovery, proportionality under Rule 26, clear offers under Rule 68, and a proposal that Rule 4(d) be amended to address the practice of "snap removal."

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REPORT OF THE ADVISORY COMMITTEE ON EVIDENCE RULES

Judge Livingston and Professor Richter provided the report of the Evidence Rules Advisory Committee, which last met on October 25, 2019, in Nashville, Tennessee. The Advisory Committee presented three information items.

Rule 702 – Admission of Expert Testimony. The Advisory Committee has been examining Evidence Rule 702, following a 2016 report which raised concerns about methods used nationwide for forensic feature-comparison evidence. The report by the President's Council of Advisors on Science and Technology (PCAST) recommended the preparation of a committee note to Rule 702 that would guide judges as to the admissibility of forensic feature-comparison expert testimony. The Advisory Committee convened a symposium in October 2017 to discuss the PCAST report and related *Daubert* issues. It has continued to discuss potential rule amendments at subsequent Advisory Committee meetings. At its fall 2019 meeting, the Advisory Committee concluded that creating a free-standing rule governing forensic evidence would be inadvisable because such a rule would overlap problematically with Rule 702. Judge Livingston noted that the Advisory Committee is exploring judicial and legal education options on this issue and the Committee's Reporter is working with the FJC and Duke and Fordham Law Schools to organize judicial-education programming.

The Advisory Committee is continuing to consider a possible amendment that would add an element to Rule 702 to address the problem of experts overstating opinions. Prior to its fall meeting, the Advisory Committee convened a group of judges from around the country for a mini-conference at Vanderbilt University. The panel provided helpful comments about *Daubert* best practices and potential Rule 702 amendments on overstatement in expert opinions. At its spring 2020 meeting, the Advisory Committee will decide whether to move forward with proposed amendments or to put further consideration of Rule 702 on hold. The DOJ has suggested that the Advisory Committee take the position of "watchful waiting" and permit the DOJ to continue its work in this area and to allow its internal changes to percolate through the courts. Judge Livingston noted that the Evidence Rules Committee is working in tandem with the Criminal Rules Committee (which has been developing amendments to Criminal Rule 16 concerning expert disclosures).

Rule 106 – Rule of Completeness. The Advisory Committee received a proposal to amend Rule 106 to provide that a completing statement is admissible over a hearsay objection and to provide that the rule covers oral statements as well as written or recorded statements. Judge Livingston noted that most courts already permit completing oral statements, but under Rule 611 rather than Rule 106. Judge Livingston observed that the original committee note to Rule 106 stated that the rule was limited to writings and recorded statements only "for practical reasons." Those "practical reasons" might concern situations where completing oral statements are made by different declarants. Another practical concern is disrupting the order of proof in a case.

Judge Livingston explained that the hearsay issue presents the strongest reason for a rule amendment. The Sixth Circuit has a published opinion holding that in order to complete a statement under Rule 106, the completing portion of the statement must also be admissible under the hearsay rules. The Advisory Committee is considering whether and how the Evidence Rules

should allow these completing oral statements to come in as evidence. Some Advisory Committee members have taken the position that a rule amendment should, in effect, create a new hearsay exception, such that the completing portion of a statement comes in for its truth. Others took the position that a completing oral statement should come in for completeness, but not its truth unless it satisfies one of the hearsay exceptions. The Advisory Committee will continue to consider this matter at its next meeting.

Rule 615 – Excluding Witnesses. The Advisory Committee is considering a potential amendment to Evidence Rule 615, which provides that a judge may *sua sponte* — or must, upon request — exclude witnesses from a trial or hearing. Professor Richter noted that sequestration orders under Rule 615 tend to be short, and the brevity of these orders, as reflected in transcripts, creates uncertainty about their scope. For example, such orders may be interpreted as only requiring witnesses to physically leave the courtroom. On the other hand, they may extend beyond physical sequestration and regulate behavior and communications by witnesses outside the courtroom. The Advisory Committee identified a conflict in federal case law regarding these interpretations. Some courts say that for a Rule 615 order's scope to extend beyond physical sequestration, a judge's order must explicitly state that external communications are to be limited. Most courts, however, say that it is implicit in the Rule — and thus covered in vague orders — that sequestration extends beyond physical presence in the courtroom. Without specificity in a Rule 615 order, the Advisory Committee is concerned that witnesses will not have notice that the court intends to bar external communications.

The Advisory Committee has identified possible alternative rule amendments to address the issue of the scope of Rule 615 orders. At this point, the Advisory Committee is still considering whether any amendment is appropriate; it will continue to explore these possibilities at its spring meeting.

REPORT OF THE ADVISORY COMMITTEE ON CRIMINAL RULES

Judge Kethledge and Professors Beale and King presented the report of the Criminal Rules Advisory Committee, which met on September 24, 2019, in Philadelphia, Pennsylvania. The Advisory Committee presented three information items.

Rule 16 – Discovery Concerning Expert Reports and Testimony. The Advisory Committee's draft amendments to Criminal Rule 16 seek to improve the specificity and timeliness of expert disclosures. The Advisory Committee undertook this project following public suggestions that Rule 16 be amended to track more closely the Civil Rule 26 approach to expert disclosures. The Advisory Committee has held two informational sessions in the past two years. Following these sessions, the Advisory Committee identified the main problems with Criminal Rule 16: timing of the disclosure, and disclosures that are too cursory and vague to allow the parties to adequately prepare for trial. The reporters and Rule 16 Subcommittee developed a proposal to address these problems. At its fall 2019 meeting, the Advisory Committee discussed and refined the draft amendments, and unanimously approved them and a proposed committee note.

Judge Kethledge summarized the Advisory Committee's main points of discussion and debate. First, the Advisory Committee debated whether a numerical or functional deadline for

disclosure would be preferable. The Advisory Committee decided a functional standard — "sufficiently before trial to provide a fair opportunity for" each party to meet the opponent's evidence — was appropriate because a one-size-fits-all approach does not work well in this context. The rule requires the district court to specify a deadline using this standard. Second, the Advisory Committee considered whether to term the disclosed document something other than a "summary" (as the current Rule calls it). The Advisory Committee elected to eschew the terms "summary" and "report" and instead to focus on the verb "disclose" – thus allowing the amended provisions to speak for themselves regarding required content of the disclosure. The proposed amendments would add to the list of required contents "a complete statement of all opinions" that the party will elicit in its case-in-chief.

While the proposal would not require the witness to prepare the document to be disclosed under Rule 16, it would require that the witness review and sign the document. Judge Kethledge explained that this provision serves an impeachment function. Judge Kethledge noted some of the concerns expressed by the DOJ about the proposal. For the signing requirement, the Department indicated that it does not always have control over the expert witness and may face difficulty getting the witness to sign; the draft includes an option for the disclosing party to "state[] in the disclosure why it could not obtain the witness's signature through reasonable efforts."

Judge Kethledge emphasized the deliberative process undertaken by the Rule 16 Subcommittee and the full Advisory Committee in developing this proposal. He commended those involved for contributing constructively and in good faith. The Advisory Committee's proposal is a product of a fairly delicate compromise. He explained that the Advisory Committee is confident that this proposed amendment would improve practice in criminal cases and allow expert testimony to be more effectively tested than it is at present.

Professor Beale added that the proposal will bring Criminal Rule 16 closer to Civil Rule 26 but she emphasized that criminal practice is different. Professor Beale explained the differences in pre-trial disclosures and discovery between civil and criminal practice. The goal of the proposed amendment is to allow the parties adequate time and opportunity to prepare for trial, and the proposal provides the necessary flexibility for that in the criminal context. Thus, the Advisory Committee drew on certain aspects of Civil Rule 26 but tailored the proposal for criminal practice. Professor King noted that the proposal limits the required disclosure to the expert opinions that will be elicited in the party's case-in-chief. This reflects special constitutional concerns in criminal cases.

The DOJ representative commented on the Advisory Committee's excellent process that took into account the Department's concerns and input and reached a consensus proposal agreeable to everyone.

A judge member inquired whether the "reasonable efforts" standard for obtaining the expert witness's signature could be clarified. Professor Beale responded that the committee note, which will be considered again at the Advisory Committee's spring meeting, could address this issue.

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Professor Marcus commented that the proposal's duty to supplement the disclosure may cause problems, based on experience with a similar provision under the Civil Rules. Professor King responded that Criminal Rule 16(c) contains a continuing duty to disclose.

Judge Campbell asked what the defendant's "case-in-chief" refers to under the proposed Rule 16(b)(1)(C)(i). Professor Beale explained that "case-in-chief," as it applies to the defense, is when the defense puts on its own witnesses after the government rests. The current rule uses "case-in-chief" in several places – with respect to discovery obligations of both the government and the defense – but not with respect to the defense's expert witness disclosure obligations. Instead, under current subsection (b)(1)(C), the defense must disclose expert witnesses it intends to use as evidence at trial. The Advisory Committee was concerned that the absence of the restricting language "case-in-chief" in subsection (b)(1)(C) might inadvertently require the defendant to disclose *more* than the government. Professor Beale emphasized that it was the Advisory Committee's goal to make the party's obligations both parallel and reciprocal.

Judge Campbell expressed concern about adding the "case-in-chief" language to the defense's expert disclosure obligations. In his view, neither the current rule nor the proposed amendment make the disclosure obligations equal. He pointed out that adding the "case-in-chief" language to the defendant's disclosure obligations could be interpreted as expanding the disclosure obligation to all expert witnesses the defense intends to use, including any rebuttal experts. In contrast, it is not clear that the government would be obligated to disclose rebuttal expert witnesses.

Professor Beale explained that the issue of unequal disclosure standards has not been coming up in practice. She suggested that the language is worth looking at again but added that there may be concern about opening up the disclosure requirements to encompass more than "case-in-chief." Judge Kethledge noted that it is hard to find the right phrase; one possibility might be "disclose every witness you will use." Judge Campbell responded that this is what the rule already requires of the defendant, but not of the government; the Rule, he stressed, should be even-handed.

A member raised the question about the risk of one party trying to game the system under this proposal by under-disclosing and later supplementing. This member highlighted the door-shutting aspect of the Civil Rule 26 approach. The reporters responded that this potential issue had not been raised in any discussions and would be beneficial to address with the Advisory Committee.

A judge member commented that the defendant's "case-in-chief" language already existed in subdivision (b) and that there are practical reasons to use that term. Because a defendant has no obligation to preview his or her defense before trial, the government may not know what expert witnesses it needs for rebuttal. The same situation can arise where a defendant needs to call an expert witness in sur rebuttal. This member suggested that this is a reason to use parallel language and refer to "case-in-chief." Professor King explained that even though the proposal is reciprocal, it is situated within the larger context of various defense rights, including the protection against self-incrimination.

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Another member remarked that the duty to supplement expert disclosures under Civil Rule 26 is critical to prevent trial by ambush. The member observed that this concern may not carry over to criminal practice to the same degree.

Professor King asked the Standing Committee members whether it makes sense to close the door on a criminal defendant's ability to supplement when the defendant identifies an additional expert witness during and because of an issue that arises at trial. She noted as a backdrop that the defendant has no duty to put on a defense at all.

Judge Campbell emphasized the tension present in criminal practice: there is an interest in avoiding sandbagging, but the system also must preserve the defendant's rights.

Professor Beale acknowledged these concerns. She reiterated that practitioners have not been reporting problems with delayed supplementation or parties gaming the system. Unlike with new Criminal Rule 16.1, there was no push to add an explicit good-faith element to the duty to supplement in this proposal. Judge Kethledge added that the Advisory Committee developed this proposal with the approach of limiting its efforts to actual, existing problems and building a consensus around them, rather than focusing on speculative problems.

Task Force on Protecting Cooperators. Judge Kethledge noted that the Task Force, chaired by Judge Lewis Kaplan, has made its recommendations, which related primarily to changes in the CM/ECF system and changes to Bureau of Prisons operations and policies. Some of the recommendations are proving challenging and expensive to implement.

In Forma Pauperis Status Suggestion. Judge Kethledge explained that the Advisory Committee chose not to pursue the suggestion regarding i.f.p. status because eligibility under the Criminal Justice Act involves different standards. The Advisory Committee would be interested in being involved with this multi-committee item, if it continues, as far as i.f.p. status relates to habeas cases.

OTHER COMMITTEE BUSINESS

Legislative Report. Julie Wilson delivered the legislative report and directed the Committee to the tracking chart in the agenda book. The chief legislative development concerning the rules committees is the SBRA, which was discussed previously. Along with CACM and the Office of Legislative Affairs, the Rules Committee Staff provided support to Judge Audrey Fleissig and Judge Richard Story last fall when they testified before the House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet. The hearing and their testimony primarily focused on sealing of court records, cameras in federal courts, and access to the Public Access to Court Electronic Records (PACER) database. Representative Nadler recently introduced H.R. 5645, the "Eyes on the Courts Act of 2020." The bill would provide for media coverage of all federal appellate proceedings, including Supreme Court proceedings. A Sunshine in Litigation Act bill will likely be reintroduced. The Rules Committee Staff will continue to monitor any legislation introduced that would directly or effectively amend the federal rules.

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Judiciary Strategic Planning. Ms. Wilson reported on the *Strategic Plan for the Federal Judiciary*, which sets out the core values of the federal judiciary and strategies for realizing those values. The *Plan* is updated every five years, and 2020 is an update year. Ms. Wilson directed the members to the agenda book containing an update from Judge Campbell on the *Plan* and the Rules Committees' work. Discussion was invited; Judge Campbell will continue to communicate with the Judiciary's Planning Officer regarding updates to the *Plan.*

CONCLUDING REMARKS

Before adjourning the meeting, Judge Campbell thanked the Committee's members and other attendees for their preparation and contributions to the discussion. The Committee will next meet in Washington, DC. on June 23, 2020.

Respectfully submitted,

Rebecca A. Womeldorf
Secretary, Standing Committee

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Agenda E-19 (Summary)
Rules
March 2020

SUMMARY OF THE

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

- Federal Rules of Appellate Procedure ...... pp. 2-3
- Federal Rules of Bankruptcy Procedure ...... pp. 3-7
- Federal Rules of Civil Procedure ...... pp. 7-10
- Federal Rules of Criminal Procedure ...... pp. 10-12
- Federal Rules of Evidence ...... pp. 12-14
- Other Items ...... p. 14

NOTICE
NO RECOMMENDATIONS PRESENTED HEREIN REPRESENT THE POLICY OF THE JUDICIAL CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.

Agenda E-19
Rules
March 2020

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

The Committee on Rules of Practice and Procedure (Standing Committee or Committee) met on January 28, 2020. All members participated.

Representing the advisory committees were Judge Michael A. Chagares, Chair (by telephone), and Professor Edward Hartnett, Reporter, Advisory Committee on Appellate Rules; Judge Dennis Dow, Chair, Professor S. Elizabeth Gibson, Reporter, and Professor Laura Bartell, Associate Reporter, Advisory Committee on Bankruptcy Rules; Judge John D. Bates, Chair, Professor Edward H. Cooper, Reporter, and Professor Richard L. Marcus, Associate Reporter, Advisory Committee on Civil Rules; Judge Raymond M. Kethledge, Chair, Professor Sara Sun Beale, Reporter, and Professor Nancy J. King, Associate Reporter, Advisory Committee on Criminal Rules; and Judge Debra Ann Livingston, Chair, Advisory Committee on Evidence Rules.

Also participating in the meeting were Professor Catherine T. Struve (by telephone), the Standing Committee's Reporter; Professor Daniel R. Coquillette (by telephone), Professor Bryan A. Garner and Professor Joseph Kimble, consultants to the Standing Committee; Rebecca A. Womeldorf, the Standing Committee's Secretary (by telephone); Bridget Healy (by telephone), Scott Myers and Julie Wilson, Rules Committee Staff Counsel; Allison Bruff, Law Clerk to the Standing Committee; Professor Liesa Richter, consultant to the Advisory Committee on

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Evidence Rules; John S. Cooke, Director, and Dr. Tim Reagan, Senior Research Associate, of the Federal Judicial Center (FJC).

Elizabeth J. Shapiro, Deputy Director, Federal Programs Branch, Civil Division, represented the Department of Justice (DOJ) on behalf of Deputy Attorney General Jeffrey A. Rosen.

In addition to its general business, including a review of pending rules amendments in different stages of the Rules Enabling Act process and pending legislation affecting the rules, the Committee received and responded to reports from the five rules advisory committees and two joint subcommittees, and discussed an action item regarding judiciary strategic planning.

FEDERAL RULES OF APPELLATE PROCEDURE

The Advisory Committee on Appellate Rules presented no action items.

Information Items

The Advisory Committee met on October 30, 2019. Discussion items included: the rules and forms published for public comment in August 2019; potential amendments to Rules 25, 35, and 40; a suggestion that parties be given notice and an opportunity to respond if a decision will rest on grounds not argued; and the standard for in forma pauperis participation in appellate cases.

Rule 25

The Advisory Committee continued its discussion of potential amendments to Rule 25(a)(5) to ensure privacy protections in Railroad Retirement Act cases. A proposed rule amendment will be considered at the spring meeting.

Rules 35 and 40

Amendments to Rule 35 (En Banc Determination) and Rule 40 (Petition for Panel Hearing) imposing length limits on responses to a petition for rehearing have been approved by

the Conference and submitted to the Supreme Court for its consideration, with a potential effective date of December 1, 2020. Beyond these specific pending amendments, the Advisory Committee continued to consider a suggestion that Rules 35 and 40 be revised comprehensively to make the two rules dealing with rehearing petitions more consistent, but has been dissuaded from doing so given the absence of a demonstrated problem calling for such a comprehensive solution, as well as potential unintended consequences and the general disruption of significant rules amendments. The Advisory Committee will continue to discuss more limited amendments to Rule 35 that would clarify the relationship between petitions for panel rehearing and rehearing en banc.

Finally, the Advisory Committee determined to retain on its agenda a suggestion that parties be given notice and an opportunity to respond if a decision may be based on grounds not argued. The Advisory Committee will also continue to consider in forma pauperis standards in appellate cases.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

The Advisory Committee on Bankruptcy Rules presented no action items.

Information Items

The Advisory Committee met on September 26, 2019. The bulk of the agenda concerned responses to two recently enacted laws and an update on the restyling of the Bankruptcy Rules.

Response to Enactment of the Honoring American Veterans in Extreme Need Act of 2019: Notice of Amendments to Official Forms 122A-1, 122B, and 122C-1

In response to the Honoring American Veterans in Extreme Need Act of 2019 (HAVEN Act, Pub. L. No. 116-52, 133 Stat, 1076), which became effective on August 23, 2019, the Advisory Committee approved amendments to Official Forms 122A-1 (Chapter 7 Statement of Your Current Monthly Income), 122B (Chapter 11 Statement of Your Current Monthly Income), and 122C-1 (Chapter 13 Statement of Your Current Monthly Income and Calculation of

Commitment Period). It submitted the amendments for retroactive approval by the Standing Committee, and for notice to the Judicial Conference.[1]

The HAVEN Act amends the definition of "current monthly income" in Title 11, U.S. Code, § 101(10A) to exclude:

> any monthly compensation, pension, pay, annuity, or allowance paid under title 10, 37, or 38 in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services, except that any retired pay excluded under this subclause shall include retired pay paid under chapter 61 of title 10 only to the extent that such retired pay exceeds the amount of retired pay to which the debtor would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.

The exclusions set forth in the HAVEN Act's amended definition of "current monthly income" supplement the current income exclusions for social security benefits, payments to victims of war crimes or crimes against humanity, and payments to victims of terrorism. The HAVEN Act also limits the inclusion of certain pension and retirement income.

To address the statutory change, at its September 26, 2019 meeting, the Advisory Committee approved conforming changes to lines 9 and 10 of Official Forms 122A-1, 122B, and 122C-1. The revised forms were posted on the judiciary's website on October 1, 2019. The Standing Committee approved the changes and now provides notice to the Judicial Conference. The revised forms are set forth in Appendix A.

<u>Response to the Enactment of the Small Business Reorganization Act of 2019: Distribution of Interim Bankruptcy Rules; Notice of Amendments to Official Forms 101, 201, 309E1, 309E2 (new), 309F1, 309F2 (new), 314, 315, and 425A</u>

The Small Business Reorganization Act of 2019 (SBRA, Pub. L. No. 116-54, 133 Stat. 1079) creates a new subchapter V of chapter 11 for the reorganization of small business debtors, which will become effective February 19, 2020. The enactment of the SBRA requires

[1] Because the HAVEN Act went into effect immediately upon enactment, the Advisory Committee voted to change the relevant forms pursuant to the authority granted by the Judicial Conference to the Advisory Committee to enact changes to Official Forms subject to subsequent approval by the Standing Committee and notice to the Judicial Conference (JCUS-MAR 16, p. 24).

amendments to several bankruptcy rules and forms. Because the SBRA will take effect long before the rulemaking process can run its course, the Advisory Committee voted to issue needed rule amendments as interim rules for adoption by each judicial district. In addition, the Advisory Committee recommended amended and new forms pursuant to the authority delegated to make conforming and technical amendments to Official Forms (JCUS-MAR 16, p. 24).

The Advisory Committee's proposed interim rules and form changes were published for comment for four weeks starting in mid-October 2019. As a result of the comments received, a subcommittee of the Advisory Committee recommended changes to several of the published rules and forms, changes to four rules that were not published for public comment, and promulgation of a new rule.

By email vote concluding on December 4, 2019, the Advisory Committee voted unanimously to seek the issuance of 13 interim rules, and it approved nine new or amended forms as Official Forms pursuant to the Advisory Committee's delegated authority from the Judicial Conference (JCUS-MAR 16, p. 24). By email vote concluding on December 13, 2019, the Standing Committee unanimously approved the Advisory Committee's proposed interim rules and Official Form changes required to respond to SBRA. This report constitutes notice to the Judicial Conference of amendments to Official Forms 101 (Voluntary Petition for Non-Individuals Filing for Bankruptcy), 201 (Voluntary Petition for Individuals Filing for Bankruptcy), 309E1 (For Individuals or Joint Debtors), 309E2 (For Individuals or Joint Debtors under Subchapter V) (new), 309F1 (For Corporations or Partnerships), 309F2 (For Corporations or Partnerships under Subchapter V) (new), 314 (Class [ ] Ballot for Accepting or Rejecting Plan of Reorganization), 315 (Order Confirming Plan), and 425A (Plan of Reorganization for Small Business Under Chapter 11). The revised forms are set forth in Appendix B.

Following the Standing Committee's approval, the chairs of the Standing Committee and the Advisory Committee requested the Executive Committee of the Judicial Conference to act on an expedited basis on behalf of the Judicial Conference to authorize distribution of Interim Rules of Bankruptcy Procedure 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, 3017.2, 3018, and 3019 to the courts so that they can be adopted locally to facilitate uniformity in practice until the Bankruptcy Rules can be revised in accordance with the Rules Enabling Act. On December 16, 2019, the Executive Committee approved the requests as submitted.

The chairs of the Standing Committee and the Advisory Committee sent an explanatory memorandum to all chief judges of the district and bankruptcy courts on December 19, 2019. The memorandum included a copy of the interim rules and requested that they be adopted locally to implement the SBRA until rulemaking under the Rules Enabling Act can take place.

A copy of the December 19 memorandum and the Advisory Committee's December 5 Report to the Standing Committee are included in Appendix B. The interim rules and amended forms are also posted on the judiciary's website.

At its spring 2020 meeting, the Advisory Committee will consider the issuance of permanent rules to comply with the SBRA and anticipates seeking the Standing Committee's approval at its June 2020 meeting to publish the rules and forms for public comment in August 2020.[2]

Bankruptcy Rules Restyling

The Advisory Committee also reported on the progress of the work of its Restyling Subcommittee in restyling the Bankruptcy Rules. The Advisory Committee anticipates that

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[2] Although the Official Forms have been officially promulgated pursuant to the Advisory Committee's delegated authority from the Judicial Conference to issue conforming Official Form amendments, the Advisory Committee intends to publish them again under the regular procedure to ensure full opportunity for public comment.

restyled versions of the 1000 and 2000 series of rules will be ready for publication for public comment this summer, subject to the Standing Committee's approval at its June 2020 meeting.

FEDERAL RULES OF CIVIL PROCEDURE

The Advisory Committee on Civil Rules presented no action items.

Information Items

The Advisory Committee met on October 29, 2019. In addition to its regular business, the Advisory Committee heard testimony from one witness regarding the proposed amendment to Rule 7.1 addressing disclosure statements, which was published for public comment in August 2019. The proposed amendment to Rule 7.1 remains out for public comment, and the Advisory Committee plans to consider the draft rule and anticipates seeking final approval from the Standing Committee at its June 2020 meeting. The Committee discussed a suggestion regarding service by the U.S. Marshals Service for in forma pauperis cases. In addition, the Committee received updates on the work of a joint Civil-Appellate subcommittee and two subcommittees tasked with long-term projects involving possible rules for social security disability cases and multidistrict litigation (MDL) cases.

Service by U.S. Marshals for In Forma Pauperis Cases

At the January 2019 Standing Committee meeting, a member raised an ambiguity in the meaning of Rule 4(c)(3), the rule addressing service by the U.S. Marshals Service for in forma pauperis cases. The rule states that "[a]t the plaintiff's request, the court *may* order that service be made" by a marshal and that the court "*must* so order" if the plaintiff is proceeding *in forma pauperis* (emphasis added). The ambiguity lies in the word "must" – when is it that the court "must" order service? The two sentences could be read together to mean that the court must order service by a marshal only if the plaintiff has requested it. Or the second sentence could be read independently to require marshal service even if the plaintiff does not make a request. The

ambiguity appears to be an unintended result of changes made as part of the 2007 restyling of the Civil Rules.

According to the U.S. Marshals Service, service practices for in forma pauperis cases vary across districts. Greater uniformity would be welcome, as would reducing service burdens on the Marshals Service. While it is not clear that a rule change would accomplish either goal, the Advisory Committee is exploring amendment options that would resolve the identified ambiguity. The Advisory Committee will continue to gather information on current practices and possible improvements in consultation with the U.S. Marshals Service.

Appeal Finality After Consolidation Joint Civil-Appellate Subcommittee

As previously reported, a joint subcommittee of the Advisory Committees on Civil and Appellate Rules is considering whether either or both rule sets should be amended to address the effect of consolidating initially separate cases on the "final judgment rule". The impetus for this project is *Hall v. Hall*, 138 S. Ct. 1118 (2018). In *Hall*, the petitioner argued that two individual cases consolidated under Civil Rule 42(a) should be regarded as one case, with the result that a judgment in one case would not be considered "final" until all of the consolidated cases are resolved. *Id.* at 1124. The Court disagreed, holding that individual cases consolidated under Civil Rule 42(a) for some or all purposes at the trial level retain their separate identities for purposes of final judgment appeals. *Id.* at 1131. The Court concluded by suggesting that if "our holding in this case were to give rise to practical problems for district courts and litigants, the appropriate Federal Rules Advisory Committees would certainly remain free to take the matter up and recommend revisions accordingly." *Id.*

Given the invitation from the Court, the subcommittee was formed to gather information as to whether any "practical problems" have arisen post-*Hall*. As a first step, the subcommittee is working with the FJC to gather data about consolidation practices. The FJC's study will

initially include actions filed in 2015-2017 and may eventually include post-2017 actions. The subcommittee will not consider any rule amendments until the research is concluded.

Social Security Disability Review Subcommittee

The Social Security Disability Review Subcommittee continues its work considering a suggestion by the Administrative Conference of the United States (ACUS) that the Judicial Conference develop uniform procedural rules for cases in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g).

The subcommittee continues to work on a preliminary draft Rule 71.2 for discussion purposes. The subcommittee made the initial decision to include the rule within the existing Civil Rules framework with the goal of obtaining a uniform national procedure. Some members at the Advisory Committee's October 2019 meeting expressed concern that including subject-specific rules within the Civil Rules conflicts with the principle that the Civil Rules are intended to be rules of general applicability, i.e., "transubstantive." The DOJ has expressed concern about the precedent of adopting specific rules for one special category of administrative cases. The subcommittee has drafted a standalone set of supplemental rules to be considered as an alternative to including a rule within the existing Civil Rules.

The subcommittee will continue to gather feedback on the draft Rule 71.2, the supplemental rules and, of course, the broader question of whether rulemaking would resolve the issues identified in the initial ACUS suggestion. The subcommittee plans to decide whether pursuit of a rule is advisable and to recommend an approach at the Advisory Committee's April 2020 meeting.

MDL Subcommittee

The MDL Subcommittee was formed in November 2017 to consider several suggestions from the bar that specific rules be developed for MDL proceedings. Since its inception, the subcommittee has engaged in a substantial amount of fact gathering, with valuable assistance from the Judicial Panel on Multidistrict Litigation and the FJC. Subcommittee members continue to gather information and feedback by participating in conferences hosted by different constituencies, including MDL transferee judges.

The MDL Subcommittee has considered a long list of topics and narrowed that list over time. At the October 2019 meeting, the subcommittee reported its conclusion that third-party litigation financing (TPLF) issues did not seem particular to multidistrict litigation and in fact appear more pronounced in other types of litigation. For that reason, the subcommittee recommended removing TPLF issues from the list of topics on which to focus. Given the growing and evolving importance of TPLF, the Advisory Committee agreed with the subcommittee's recommendation that the Advisory Committee continue to monitor developments in TPLF. The MDL Subcommittee's continued work now focuses on three areas:

a. Use of plaintiff fact sheets and defendant fact sheets to organize large personal injury MDL proceedings and to "jump start" discovery;

b. Interlocutory appellate review of some district court orders in MDL proceedings; and

c. Settlement review, attorney's fees, and common benefit funds.

FEDERAL RULES OF CRIMINAL PROCEDURE

The Advisory Committee on Criminal Rules presented no action items.

Information Item

The Advisory Committee met on September 24, 2019. The meeting focused on a proposed draft amendment to Rule 16 that would expand the scope of expert discovery. The scope of discovery in criminal cases has been a recurrent topic on the Advisory Committee's

agenda for decades. Most recently, the Rule 16 Subcommittee was formed to consider suggestions from two district judges to expand pretrial disclosure of expert testimony in criminal cases under Rule 16 to more closely parallel the expert disclosure requirements in Civil Rule 26. At the Advisory Committee's October 2018 meeting, the DOJ updated the Advisory Committee on its development and implementation of policies governing disclosure of forensic and non-forensic evidence. The Rule 16 Subcommittee subsequently convened a miniconference in May 2019 to explore the issue with stakeholders. Participants included defense attorneys, prosecutors, and DOJ representatives who have extensive personal experience with pretrial disclosures and the use of experts in criminal cases. Participants were asked to identify any concerns or problems with the current Rule 16 and to provide suggestions for improving the rule.

While the DOJ representatives reported no problems with the current rule, the defense attorneys identified two problems: (1) the lack of a timing requirement; and (2) the lack of detail in the disclosures provided by prosecutors. Participants discussed ways to improve the current rule to address these identified concerns.

Based on the feedback, the Rule 16 Subcommittee drafted a proposed amendment that addressed the timing and contents of expert disclosures while leaving unchanged the reciprocal structure of the current rule. First, the proposed amendment provides that the court "must" set a time for the government and defendant to make their disclosures of expert testimony to the opposing party. That time must be "sufficiently before trial to provide a fair opportunity for each party to meet" the other side's expert evidence. Second, the proposed amendment lists what must be disclosed in place of the now-deleted phrase "written summary."

After thorough discussion at the October 2019 meeting, the Advisory Committee unanimously approved the draft amendment in concept. The Rule 16 Subcommittee continues to refine the draft rule and accompanying committee note and will present the final draft to the

Advisory Committee at the May 5, 2020 meeting. The Advisory Committee plans to seek approval to publish the proposed amendment in August 2020.

FEDERAL RULES OF EVIDENCE

The Advisory Committee on Evidence Rules presented no action items.

Information Items

The Advisory Committee met on October 25, 2019. That morning, the Advisory Committee held a miniconference on best practices for judicial management of *Daubert* issues. The afternoon meeting agenda included a debrief of the miniconference, as well as discussion of ongoing projects involving possible amendments to Rules 106, 615, and 702.

Miniconference on Best Practices in Managing *Daubert* Issues

The miniconference involved an exchange of ideas among Advisory Committee members and an invited panel regarding *Daubert* motions and hearings, including the questions about the interplay between *Daubert* and Rule 702. The panel included five federal judges who have authored important *Daubert* opinions and who have extensive experience in managing *Daubert* proceedings, as well as a law professor who has written extensively in this area.

Rule 702

Following the miniconference, the Advisory Committee continued the discussion, noting that its consideration of these issues began with the Advisory Committee's symposium on forensics and *Daubert* held in October 2017. The Advisory Committee formed a Rule 702 Subcommittee to consider possible treatment of forensics, as well as the weight/admissibility question described below.

The Advisory Committee has heard extensively from the DOJ about its current efforts to regulate the testimony of its forensic experts. The Advisory Committee continues to consider a possible amendment addressing overstatement of expert opinions, especially directed toward

forensic experts. The current draft being considered by the Advisory Committee provides that "if the expert's principles and methods produce quantifiable results, the expert does not claim a degree of confidence unsupported by the results." At its next meeting on May 8, 2020, the Advisory Committee plans to consider whether to seek approval to publish for public comment a proposed amendment to Rule 702.

Rule 106

The Advisory Committee continues its consideration of various alternatives for an amendment to Rule 106, which provides that when a party presents a writing or recorded statement, the opposing party may insist on introduction of all or part of a writing or recorded statement that ought in fairness to be considered as well. One option is to clarify that the completing statement should be admissible over a hearsay objection because it is properly offered to provide context to the initially proffered statement. Another option is to state that the hearsay rule should not bar the completing statement, but that it should be up to the court to determine whether it is admissible for context or more broadly as proof of a fact. The final consideration will be whether to allow unrecorded oral statements to be admissible for completion, or rather to leave it to parties to seek admission of such statements under other principles, such as the court's power under Rule 611(a) to exercise control over evidence. The Advisory Committee plans to consider at its May 8, 2020 meeting whether to recommend a proposed amendment to Rule 106 for public comment.

Rule 615

Finally, the Advisory Committee continues to consider a rule amendment to address problems identified in the case law and reported to the Advisory Committee regarding the scope of a Rule 615 order, regarding excluding witnesses. The Advisory Committee plans to consider

whether to recommend a proposed amendment to Rule 615 for public comment at its May 8, 2020 meeting.

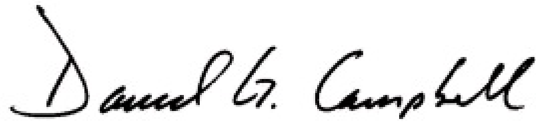
OTHER ITEMS

The Standing Committee's agenda included two additional information items and one action item. First, the Committee heard the report of the E-filing Deadline Joint Subcommittee, the subcommittee formed to consider a suggestion that the electronic filing deadlines in the federal rules be rolled back from midnight to an earlier time of day, such as when the clerk's office closes in the court's respective time zone. The subcommittee's membership includes members of each of the rules committees as well as a representative from the DOJ. The subcommittee's work is in the early stage and it will report its progress at the June 2020 meeting.

Second, the Committee was briefed on the status of legislation introduced in the 116th Congress that would directly or effectively amend a federal rule of procedure.

Third, at the request of Judge Carl E. Stewart, Judiciary Planning Coordinator, the Committee discussed whether there were any changes it believed should be considered for inclusion in the 2020-2025 *Strategic Plan for the Federal Judiciary* (*Strategic Plan*). It is the Committee's view that, while committed to supporting the *Strategic Plan*, its work is very specific – evaluating and improving the already-existing rules and procedures for federal courts – and often does not involve the broader issues that concern the Judicial Conference and the strategic planning process. With this reality in mind, the Committee did not identify any specific additional rules-related suggestions but authorized the Chair to convey to Judge Stewart ongoing rules initiatives that should support the *Strategic Plan*.

Respectfully submitted,



David G. Campbell, Chair

Jesse M. Furman	Carolyn B. Kuhl
Daniel C. Girard	Gene E.K. Pratter
Robert J. Giuffra Jr.	Jeffrey A. Rosen
Frank Mays Hull	Srikanth Srinivasan
William J. Kayatta, Jr.	Kosta Stojilkovic
Peter D. Keisler	Jennifer G. Zipps
William K. Kelley	

Appendix A – Official Bankruptcy Forms (form changes made to implement the HAVEN Act)
Appendix B – Memoranda, Interim Bankruptcy Rules, and Official Bankruptcy Forms regarding implementation of the SBRA

TAB 3B

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TAB 3C

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TAB 3D

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON PRIVACY, PUBLIC ACCESS, AND APPEALS

SUBJECT: FURTHER CONSIDERATION OF CONFORMING AMENDMENTS TO RULE 8003

DATE: MARCH 3, 2020

This Subcommittee has been asked to recommend to the Advisory Committee whether to propose amendments to Rule 8003 (Appeal as of Right—How Taken; Docketing the Appeal) that conform to amendments to FRAP 3(c) (Contents of the Notice of Appeal) which have been proposed by the Advisory Committee on Appellate Rules and published for public comment. At the fall 2019 meeting of the Advisory Committee on Bankruptcy Rules, the Subcommittee reported that it had some doubts about whether conforming amendments were necessary and that it wanted to consider any comments received on the FRAP 3(c) before making a recommendation regarding Rule 8003.

Section I of this memorandum reviews the content and justification of the proposed amendments to FRAP 3(c). Section II discusses how Rule 8003 is both alike and different from the appellate rule. Section III discusses the case law that led the Appellate Committee to propose its amendments and how those decisions might affect bankruptcy appeals. It also discusses the comments that have been submitted on the published amendments to FRAP 3(c). Finally, Section IV explains why the Subcommittee has decided to wait for further developments before deciding the extent to which Rule 8003 should be amended to conform to the FRAP 3(c) amendments.

I. Proposed Amendments to FRAP 3(c)

FRAP 3 governs the procedure for taking an appeal as of right to a court of appeals, and subdivision (c) of that rule specifies the contents of a notice of appeal. In June 2019 the Standing Committee voted to publish a set of amendments to that subdivision, which the Appellate Committee explained as follows:

> The Committee has been considering a possible amendment to Rule 3, dealing with the contents of notices of appeal, since the fall of 2017 when a letter from Neal Katyal and Sean Marotta brought to the Committee's attention a troubling line of cases in one circuit. That line of cases, using an expressio unius rationale, would treat a notice of appeal from a final judgment that mentioned one interlocutory order but not others as limiting the appeal to that order, rather than reaching all of the interlocutory orders that merged into the judgment.
>
> Research conducted since that time has revealed that the problem is not confined to a single circuit, but instead that there is substantial confusion both across and within circuits. In addition to a number of decisions that used an expressio unius rationale like the one pointed to in the Katyal and Marotta letter, there are also numerous decisions that would treat a notice of appeal that designated an order that disposed of all remaining claims in a case as limited to the claims disposed of in that order.
>
> Moreover, there have also been cases holding that an appeal that designates an order denying a motion for reconsideration does not bring up for review the underlying judgment sought to be reconsidered.
>
> The Supreme Court has recently described filing a notice of appeal as "generally speaking, a simple, nonsubstantive act," and observed that filing requirements for notices of appeal "reflect that claims are . . . likely to be ill defined or unknown" at the time of filing. *Garza v. Idaho*, 139 S. Ct. 738, 745-46 (2019).
>
> The Committee's goal in proposing the amendments is fully in accord with *Garza*: to reduce the inadvertent loss of appellate rights caused by the phrasing of a notice of appeal.

June 2019 Standing Committee Agenda Book at 80-81.

The set of proposed amendments to FRAP 3(c) consists of four parts. First, subsection (c)(1)(B) would be revised as follows: "(B) designate the judgment~~,~~—or the appealable order—

from which the appeal is taken~~, or part thereof being appealed~~; and . . . ." The Appellate Committee explained that these changes are intended to do the following:

- "highlight that the distinction between the ordinary case in which an appeal is taken from the final judgment from the less-common case in which an appeal is taken from some other order;"[1]
- clarify that a designated order must be appealable; that is, like a judgment, it must provide the basis for appellate jurisdiction; and
- remove the reference to "or part thereof," which the committee thought contributed to the interpretation problems.

Second, without attempting to define the merger principle, the amended subsection would contain a new paragraph (4), instructing that the "notice of appeal encompasses all orders that merge for purposes of appeal into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal." The Committee Note would state the general merger rule.

Third, a new paragraph (5) would be added in an effort to avoid the inadvertent loss of appellate rights when the notice of appeal designates an order disposing of all remaining claims or denying reconsideration. It would provide as follows:

> (5) In a civil case, a notice of appeal encompasses the final judgment, whether or not that judgment is set out in a separate document under Federal Rule of Civil Procedure 58, if the notice designates:
>
> (A) an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties; or
>
> (B) an order described in Rule 4(a)(4)(A).

[1] To further highlight this distinction, the Appellate Committee has proposed subdividing Appellate Form 1 (Notice of Appeal) into Form 1A for appeals from judgments and Form 1B for appeals from appealable orders. Our Forms Subcommittee has been asked to recommend whether Official Bankruptcy Form 417A should be similarly divided.

Finally, a new paragraph (6) would explain that an "appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is so limited. Without such an express statement, specific designations do not limit the scope of a notice of appeal."

II. Rule 8003

This rule was promulgated in 2014 as part of the overall revision of the part VIII rules. The accompanying Committee Note explains that it "is derived from several former Bankruptcy Rule and Appellate Rule provisions." It governs, for appeals as of right, the procedures for filing a notice of appeal, joint and consolidated appeals, serving the notice of appeal, and transmitting the notice of appeal to the district court or BAP. Subdivision (a)(3) provides as follows regarding the contents of the notice of appeal:

> The notice of appeal must:
> (A) conform substantially to the appropriate Official Form;
> (B) be accompanied by the judgment, order, or decree, or the part of it, being appealed; and
> (C) be accompanied by the prescribed fee.

Although the Committee Note explains that some parts of Rule 8003 are derived from FRAP 3, it says that subdivision (a) "incorporates, with stylistic changes, much of the content of former Rule 8001(a) regarding the taking of an appeal as of right under 28 U.S.C. § 158(a)(1) or (a)(2)."

Unlike FRAP 3(c), Rule 8003(a)(3) does not specify the contents of a notice of appeal. Instead it requires substantial conformity with the Official Form that is now designated 417A.

Part 2 of Official Form 417A provides:

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: ____________________________

2. State the date on which the judgment, order, or decree was entered: ___________________

* * * * *

Substantial compliance with this section of the form therefore requires a designation similar to that required by FRAP 3(c).

III. Conflicting Case law; Comments on the Published Amendments

The Appellate Rules Committee decided that clarifying amendments to FRAP 3(c) were needed after it reviewed the existing case law that demonstrated a conflict in how the rule was being applied by the courts of appeals. The "rules law clerk" prepared an extensive memorandum discussing the cases in each circuit, which the Subcommittee has reviewed. The major conclusions of the research were as follows:

1. Katyal and Marotta accurately describe the Eighth Circuit's position. Although the Eighth Circuit has adopted the merger rule, the court tends to find the rule inapplicable when a notice of appeal designates *both* the final judgment *and* a specific interlocutory order. In such situations, the court usually confines its appellate jurisdiction to the interlocutory order designated in the notice of appeal, reasoning that designating a specific interlocutory order manifests an intent to exclude from review any undesignated interlocutory order. The court reaches the same conclusion when the notice of appeal designates a part of the final judgment as opposed to the judgment as a whole.

2. [A]t least six other circuits – the First, Second, Fourth, Fifth, Eleventh, and Federal Circuits – follow the Eighth Circuit's approach. These courts of appeals tend to deny review of undesignated interlocutory orders when the notice of appeal designates *both* the final judgment *and* a specific interlocutory order. The First Circuit appears to be the only circuit that expressly describes this approach as the "*exclusio unius*" approach.

   However, these findings should not be overstated. Each circuit has conflicting case law, with some courts within a given circuit denying review and others permitting review of undesignated interlocutory orders when the notice of appeal designated *both* the final judgment *and* a specific interlocutory order.

3. Courts of appeals split about permitting review of the entire final judgment when the notice of appeal designates only the last order in a civil case disposing of all remaining claims against all remaining parties. In such situations, five courts of appeals – the Third, Sixth, Seventh, Ninth, and Tenth Circuits – permit review of the entire final judgment whereas six circuits – the First, Fourth, Fifth,

> Eighth, Eleventh, and Federal Circuits – do not. Two circuits – the Second and D.C. Circuits – have conflicting case law on this issue.

Patrick A. Tighe memorandum of Aug. 17, 2018, to Judge Michael A. Chagares and Rebecca A. Womeldorf, at 1-2.

Although only one bankruptcy decision was discussed in the case law memorandum, it is to be expected that courts of appeals will apply their precedents interpreting FRAP 3(c) to appeals of bankruptcy cases from district courts and bankruptcy appellate panels, appeals to which that rule applies.[2] Moreover, because Rule 8003 is based in part on FRAP 3, as long as those rules are worded similarly, district courts and bankruptcy appellate panels are likely to look to decisions in their circuits under FRAP 3(c) in applying Rule 8003(a)(3). *See, e.g., Denunzio v. Ivy Holdings, Inc. (*In re *East Orange Gen. Hosp., Inc.)*, 587 B.R. 53, 68 (D.N.J. 2018) ("Because Federal Rule of Bankruptcy Procedure 8003(a)(3) is nearly identical to Federal Rule of Appellate Procedure 3(c)(1), I take case law interpreting the latter as a guide."); *Garlock* v. *Thomas***,** 575 B.R. 913, 921 (N.D. Cal. 2017) (same). Should the wording of Rule 8003(a)(3) diverge from the wording of amended FRAP 3(c), districts courts and bankruptcy appellate panels might conclude that the newly added guidance in FRAP 3(c) does not apply to the bankruptcy rule and that the pre-amendment circuit case law still applies.

When the Subcommittee considered possible conforming amendments to Rule 8003 prior to the fall meeting, it decided that it would be helpful to review any comments that were submitted in response to the publication of the amendments to FRAP 3(c) and to learn whether the Appellate Committee was going to seek final approval of the amendments.

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[2] FRAP 6(a) provides that appeals from district courts exercising original jurisdiction in bankruptcy cases are taken as other civil appeals under the rules. And FRAP 6(b)(1) makes FRAP 3 applicable to appeals to courts of appeal under 28 U.S.C. § 158(d)(1) from a final judgment, order, or decree of a district court or bankruptcy appellate panel exercising appellate jurisdiction under 28 U.S.C. § 158(a) or (b).

Seven relevant comments were submitted. Five of them are favorable. One of the two negative comments was from an individual who based his argument on an interpretation of Civil Rule 54(b) that the Appellate and Standing Committees unanimously rejected. The other negative comment, however, was from a former chair of the Appellate Committee and is discussed below.

The following positive comments were submitted:

- Attorney Thomas Mayes urged adoption "without delay."
- The New York City Bar Association stated that it supports the amendments with one minor addition. It would preface FRAP 3(c)(4) ("The notice of appeal encompasses all orders that merge for purposes of appeal into the designated judgment or appealable order. . . .") with the language, "Except as otherwise provided pursuant to Rule 3(c)(6)" (the provision that allows an express limitation of the scope of appeal).
- Professor Bryan Layman of the University of Toledo College of Law wrote that he supports the amendments, but he favors simplifying them. He suggested keeping existing FRAP 3(c) as it is with only the following sentence added to the end: "Unless the notice states otherwise, the designation of a judgment or order does not affect the scope of appellate review." He also suggested amending FRAP 4(a)(4)(B)(ii),[3] perhaps by deleting it altogether, so as not to suggest that the notice of appeal restricts the scope of review.
- The National Association of Defense Lawyers expressed support for the amendments, but it urged the Committee to make proposed FRAP 3(c)(5) applicable to criminal cases and suggested stylistic changes to the notice-of-appeal forms.
- The Council of Appellate Lawyers of the ABA generally supported the amendments to FRAP 3(c), but it expressed opposition to the addition of subdivision (c)(6). It feared that the provision, which would allow the appellant to expressly limit the scope of its appeal, would lead to strategic attempts to prevent the appellee from raising certain issue on a cross-appeal.

[3] That provision states, "A party intending to challenge an order disposing of any motion listed in Rule 4(a)(4)(A), or a judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion."

Judge Steven Colloton of the Eighth Circuit, a former chair of the Appellate Committee, submitted a detailed opposition to the proposed amendments to FRAP 3(c). He defended the practice of the Eighth Circuit and other courts of limiting appeals to orders specified in notices of appeal as being consistent with FRAP 3 and as "a longstanding mode of analysis, adopted in *every* circuit, that goes back at least 43 years." He further stated that the proposed amendments:

> would allow latecoming appellate lawyers to search the record for potential claims of error that the appellant did not intend to raise when it filed the notice of appeal. But facilitating an appellant's ability to change its intent, outside the time for noticing an appeal, is not a sound reason to amend Rule 3(c). Nor is it necessarily in the best interests of the system to skew the rule so that virtually every notice of appeal must be construed to allow the broadest possible scope of appellate litigation.

Should the Committee decide to proceed with the proposed amendments, however, he urged it to delete references to "traps for the unwary" and to reconsider subdivision (c)(1)(B). That provision, he suggested, by referring to "appealable orders," fails to take account of situations in which an appellant seeks review of an initially nonappealable interlocutory order after a final judgment has been entered.

IV. The Subcommittee's Decision to Await Further Developments

During its conference call on February 21, the Appeals Subcommittee voted to make no recommendation at the spring meeting regarding conforming amendments to Rule 8003 and to continue to consider whether the proposed amendments can be properly adapted to the bankruptcy context. While some members stressed the possible negative consequences of failing to conform Rule 8003 and Official Form 417A to FRAP 3(c) and Appellate Form 1, others raised concerns about how the amendments would be applied in appeals from contested matters, as opposed to adversary proceedings that mirror civil litigation. For example, one member raised a question about which prior orders merge into a judgment confirming a chapter 11 plan. He

suggested that further thought needs to be given to the ways in which bankruptcy appeals may be different from civil appeals. The Subcommittee also noted that the Appellate Committee meets on the second day of our spring meeting, the day devoted to our restyling project. That means that our Committee will not know what action the Appellate Committee is going to take in response to the comments until after the conclusion of our meeting. Rather than try to take action by email in between the spring meeting and the preparation of the Standing Committee report, the Appeals Subcommittee concluded that the better course would be to see what proposal for FRAP 3(c) and Form 1 goes forward and then to carefully consider the extent to which that approach can be adapted for bankruptcy practice.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: RULE 5005 (TRANSMITTAL TO U.S. TRUSTEE)

DATE: Mar. 6, 2020

The changes to Fed. R. Bankr. P. 9036 (entitled "Notice or Service Generally"), which became effective December 1, 2019, provide that whenever the bankruptcy rules "require or permit sending a notice or serving a paper by mail, the clerk or other party may send the notice to – or serve the paper on – a registered user by filing it with the court's electronic-filing system." The rule "does not apply to any complaint or motion required to be served in accordance with Rule 7004."

Federal Rule of Bankruptcy Procedure 5005(b), entitled "Transmittal to the United States Trustee," provides in clause (1) that "The complaints, motions, applications, objections and other papers required to be transmitted to the United States trustee by these rules shall be mailed or delivered to an office of the United States trustee, or to another place designated by the United States trustee, in the district where the case under the Code is pending."

Rule 5005(b)(2) provides that "The entity, other than the clerk, transmitting a paper to the United States trustee shall promptly file as proof of such transmittal a verified statement identifying the paper and stating the date on which it was transmitted to the United States trustee."

For the last year, the EOUST has been considering whether any changes should be made to Rule 5005 in light of the pending changes to Rule 9036. The DOJ has now approved proposed amendments to Rule 5005 to conform this USTP-specific rule to both amended Rule 9036 and current bankruptcy practice under Rule 5005(b).

The following are comments from Ramona Elliott:

> First, in our experience, parties commonly fulfill their transmittal requirements under Rule 5005(b)(1) by filing papers electronically, subject to limited exceptions such as certain types of voluminous papers filed in large chapter 11 cases that are often set forth in local rules or orders. Moreover, often through arrangements with the local clerks, the local offices are receiving papers electronically regardless of whether the United States Trustee is technically a registered CM/ECF user. The proposed language would permit parties to transmit

papers to the United States Trustee electronically in the same way and with the same exceptions provided for by amended Rule 9036, regardless of whether the UST is a registered user.

Second, parties are complying with Rule 5005(b)(2)'s requirement of a verified statement of transmittal by including a certificate of service. That certificate is not separately docketed if the paper is filed electronically, nor is it verified. The proposed language would provide that parties who transmit papers electronically need not also file a separate statement proving transmittal. It also provides that, for papers that continue to be transmitted by mail or delivery, the certificate of service need not be verified.

The proposed amendments to Rule 5005 are indicated in the following redlined copy:

Rule 5005. Filing and Transmittal of Papers

(b) **Transmittal to the United States Trustee**.

(1) The complaints, notices, motions, applications, objections and other papers required to be transmitted to the United States trustee ~~by these rules shall be mailed or delivered to an office of the United States trustee, or to another place designated by the United States trustee, in the district where the case under the Code is pending~~ may be sent by filing with the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.

(2) The entity, other than the clerk, transmitting a paper to the United States trustee other than through the court's electronic-filing system shall promptly file as proof of such transmittal a statement identifying the paper and stating the manner by which and the date on which it was transmitted to the United States trustee.

(3) Nothing in these rules shall require the clerk to transmit any paper to the United States trustee if the United States trustee requests in writing that the paper not be transmitted.

Committee Note

Subdivision (b)(1) is amended to authorize the clerk or parties to transmit papers to the United States trustee by electronic means in accordance with Rule 9036, regardless of whether the United States trustee is a registered user with the court's electronic-filing system. Subdivision (b)(2) is amended to recognize that parties meeting transmittal obligations to the United States trustee using the court's electronic-filing system need not file a statement evidencing transmittal under Rule 5005(b)(2). The amendment to subdivision (b)(2) also eliminates the requirement that statements evidencing transmittal filed under Rule 5005(b)(2) be verified.

The Subcommittee recommends that the Advisory Committee approve the proposed amendments to Rule 5005 and submit them to the Standing Committee for publication.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: 19-BK-D – PROPOSAL REGARDING RULE 7004(h)

DATE: March 6, 2020

George Weiss, an attorney in Potomac, MD, proposed in Suggestion 19-BK-D that Bankruptcy Rule 7004(h)[1] should be amended by "importing the language of" Civil Rule 4(h) (permitting service of process on an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process) to replace the requirement that service be made on "an officer," but retaining the requirement that such service be made by certified mail.

Several suggestions have been made in recent years requesting amendments to Rule 7004(h), most recently in 2017, 17-BK-E, which requested inclusion of credit unions in the Rule. Bankruptcy Rule 7004(h) was enacted verbatim by Congress in Section 114 of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106. Because, under the Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075, bankruptcy rules cannot override statutory provisions, the Advisory Committee on Bankruptcy Rules lacks the authority to modify Rule 7004(h) in a manner that is inconsistent with federal statutes. Because the text of Rule 7004(h) is in fact statutory, an amendment that modifies that language in the manner suggested by Mr. Weiss is beyond the power of the Advisory Committee, whatever its substantive merits.

Mr. Weiss followed up his initial suggestion with two others. Rather than modifying the statutory language of the rule, he suggested first that the Advisory Committee supplement the rule with a new definition of "officer" to include a resident agent appointed to accept service of process. Although any insured depository institution can designate whomever it chooses as an "officer" of that institution, the Subcommittee concluded that it is not within the power of the Advisory Committee to interpret the term "officer" to include someone the institution has not so designated.

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[1] Rule 7004(h) deals with service of process on an insurance depository institution. It requires that such service "be made by certified mail addressed to an officer of the institution" except under certain specified circumstances.

Mr. Weiss's second additional suggestion was that the Advisory Committee add an explanation of what the rule means when it requires certified mail "addressed to an officer of the institution." In particular, he would like Rule 7004 to be amended to add a new provision specifying that any service made on an officer need not name the officer but rather can be addressed to "officer of [name of institution]."

The Advisory Committee saw some merit in pursuing this suggestion and referred the suggestion to the Business Subcommittee to consider it and report back.

Background

This issue of the appropriate address of mailed service of process is not confined to Rule 7004(h); the same issue arises under the general service of process rule, Rule 7004(b)(3), with respect to service on corporations, partnerships and other unincorporated associations.[2] Mailed service on agencies of the United States that constitute corporations are also governed by Rule 7004(b)(3) pursuant to Rule 7004(b)(5). (Because Federal Rule of Civil Procedure 4(h)(1)(B) requires personal service, the issue does not arise outside of the bankruptcy context.)

Courts are divided on whether service is adequate if the officer is not named, both under Rule 7004(h), *compare In re* Exum, 2013 WL 828293, at *4 (Bankr. E.D.N.C. Mar. 6, 2013) (finding service of motion for sanctions addressed to "Officer or Managing Agent" of insured depository institution was valid); Gambill v. Consumer Recovery Assoc. (*In re* Gambill), 477 B.R. 753, 761 (Bankr. E.D. Ark. 2012) (finding service complies even if name of officer served is incorrect on the papers so long as title is accurate); SunTrust Bank v. Braden (*In re* Braden), 516 B.R 672, 676 (Bankr. S.D. Ga. 2014) (suggesting the notice to "Officer" would be sufficient) *with In re* Eimers, 2013 WL 1739645 (Bankr. D. Alaska Apr. 23, 2013) (finding notice sent to "Bank Officer" insufficient); *In re* Franchi, 451 B.R. 604, 606 (Bankr. S.D. Fla. 2011) (stating that service under Rule 7004(h) "must be upon a named officer of the institution unless one of the three enumerated exceptions in that rule apply" absent showing that debtors had exercised reasonable and appropriate diligence to ascertain appropriate agent's identity); Faulknor v. Amtrust Bank (*In re* Faulknor), 2005 WL 102970 (Bankr. N.D. Ga. Jan. 18, 2005) (finding service inadequate when addressed to corporation "Attn: President") and under Rule 7004(b)(3).

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[2] Rule 7004(b)(3) provides for service to be made within the United States by first class mail postage prepaid "(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires by also mailing a copy to the defendant."

The leading case interpreting Rule 7004(b)(3) to validate service made on an officer of a corporation by title rather than name is Moglia v. Lowitz & Sons (*In re* Outboard Marine Corp.), 359 B.R. 893 (Bankr. N.D. Ill. 2007). The chapter 7 trustee served a complaint to avoid alleged preferential transfers on the corporate defendant addressed to the corporation's name at the address of its location at the time, a default judgment. The president of the defendant contended that he never received the summons or complaint, and that the service was defective under Rule 7004(b)(3). The court concluded that the text of Rule 7004(b)(3) does not require that the plaintiff name the corporate officer or managing or general agent as long as the mailing is made to the attention of an officer or managing or general agent. *See also In re* Quintero, 513 B.R. 127, 133 (Bankr. D.N.M. 2014); Gowan v. HSBC Mortgage Corp. (*In re* Dreier LLP), 2011 WL 3047692, at *2 (Bankr. S.D.N.Y. July 22, 2011); *In re* Rushton, 285 B.R. 76, 81 (Bankr. S.D. Ga. 2002); Fleet Credit Card Servs., L.P. v. Tudor (*In re* Tudor), 282 B.R. 546, 550 (Bankr. S.D. Ga. 2002); Schwab v. Assocs. Commercial Corp. (*In re* C.V.H. Transport, Inc.), 254 B.R. 331, 334 (Bankr. M.D. Pa. 2000).

On the other side, in *In re* Schoon, 153 B.R. 48, 49 (Bankr. N.D. Cal. 1993) the debtors served a motion to avoid a judgment lien addressed to the corporation "Attn: President" at its correct address. The court found the service deficient under Rule 7004(b)(3). The court noted, "This ruling is hardly a disaster for movants or plaintiffs in bankruptcy litigation; it merely requires a little extra effort to determine the name of the president or other officer and make sure the envelope is addressed to him or her, by name. This is a small price to pay to avoid having to effect personal service." *See also* Beneficial California, Inc. v. Villar (*In re* Villar), 317 B.R. 88, 93 (B.A.P. 9th Cir. 2004); *In re* Porter, 2016 WL 5400358, at *1-2 (Bankr. D. Neb. Sept. 27, 2016) (quoting from *In re* Collins, No. 16-40070 (Bankr. D. Neb. Mar. 8, 2016)); Goodman v Homecomings Financial Network (*In re* Hunt), 2007 WL 7141217 (Bankr. N.D. Ga. 2007) (dictum); *In re* Saucier, 366 B.R. 780, 784 (Bankr. N.D. Ohio 2007) (dictum); *In re* Golden Books, Family Entertainment, Inc., 269 B.R. 300, 305 (Bankr. D. Del. 2001); Addison v. Gibson Equip. Co. (*In re* Pittman Mech. Contractors, Inc.), 180 B.R. 453, 457 (Bankr. E.D. Va. 1995). *Cf.* Carlo v. Orion Omniservices Co. (*In re* Carlo), 392 B.R. 920, 921 (Bankr. S.D. Fla. 2008) (finding that, although individual names are generally required, plaintiff used reasonable and appropriate diligence and service by title was adequate);

Analysis

Rule 7004(b)(3) (and by analogy Rule 7004(h)) were never intended to require that service on an officer, managing or general agent, or other agent be made by name rather than title. Rule 7004(b)(3) is almost identical to former Rule 704(c)(3).[3] The Advisory Committee's

[3] Rule 704(c)(3) provided as follows:

Note to Subdivision (c) to Rule 704 includes the following statement: "In serving a corporation or partnership or other unincorporated association by mail pursuant to paragraph (3) of subdivision (c), **it is not necessary for the officer or agent of the defendant to be named in the address so long as the mail is addressed to the defendant's proper address and directed to the attention of the officer or agent by reference to his position or title**." (Emphasis supplied).

When the Bankruptcy Rules were revised following the enactment of the Bankruptcy Reform Act of 1978, and Rule 704 became 7004, the original Advisory Committee Note to Rule 704 was no longer included in the published version. Instead, the Advisory Committee Note to Subdivision (b) of the Rule simply stated: "*Subdivision (b)*, which is the same as former Rule 704(c), authorizes service of process by first class mail postage prepaid. This rule retains the modes of service contained in former Bankruptcy Rule 704. The former practice, in effect since 1976, has proven satisfactory."[4] There was no indication that the Advisory Committee intended any change in meaning that would now mandate that service be made upon a named individual rather than to the attention of an officer, managing or general agent or other agent by title.

The question of whether Rule 7004 should require that a name be used in making service on an officer, managing or general agent or other agent was explicitly raised at the Sept. 28, 1999 meeting of the Advisory Committee in connection with a discussion of a suggestion by Bankruptcy Judge David H. Adams to insert language in the rules that service on a corporation, partnership, or unincorporated association must comply with Rule 7004(b)(3). The minutes of that meeting[5] describe the discussion as follows:

> Judge Kressel said the rule appears to be ambiguous, because people address service to "ABC Corp., Attention: officer, managing or general agent." The Reporter pointed out the Rule 7004 tracks the language of Civil Rule 4, and that if the Committee were to change Rule 7004 – perhaps to require that a name be used – the Standing committee would want the Committee to coordinate the proposed amendment with the Advisory Committee on Civil Rules. Judge Walker said he

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(c) Service by Mail. Service of summons, complaint, and notice of trial or pre-trial conference may also be made within the United States by first-class mail postage prepaid as follows:

***

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons, complaint, and notice directed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

Bankruptcy Rules, Arthur L. Moller & Lawrence P, King, 1981 Collier Pamphlet Edition Part 2 (1981).

[4] Bankruptcy Rules, Lawrence P. King, 1983 Collier Pamphlet Edition Part 2 (1983).

[5] Advisory Committee on Bankruptcy Rules, Meeting of September 27-28, 1999.

has seen a name challenged on the basis there was no proof that the person named had the capacity to receive service on behalf of the corporation. He said the rule is sufficient as it is, and Judge Gettleman agreed. Judge Donald said requiring parties to name an officer, director, or managing agent would create more problems than it would solve. **The Committee determined to take no action on the rule**.

Although neither the Advisory Committee Notes, nor the substance of a discussion within the Advisory Committee rejecting a change to the Rule, is binding on courts interpreting the Rule, they provide persuasive evidence of the interpretation of the Rule by those who drafted it and approved it. These sources suggest that those decisions interpreting Rule 7004 to require that an officer, managing or general agent or other agent be served by name rather than title are incorrect.

Recommendation

Because the Advisory Committee Notes cannot be modified without a change to the text of the Rule, we cannot simply reinsert the Advisory Committee Note that accompanied former Rule 704(c). Therefore, the Subcommittee recommends that, consistent with the suggestion of Mr. Weiss, a new Section 7004(i) be added to the Rule that would include the substance of the former Advisory Committee Note to Rule 704(c) and would read as follows:

(i) SERVICE OF PROCESS BY TITLE. In serving a domestic or foreign corporation or partnership or other unincorporated association by mail pursuant to paragraph (3) of subdivision (b) or an insured depository institution by certified mail pursuant to subdivision (h), it is not necessary for the officer or agent of the defendant to be named in the address -- or, if named, that such name be correct -- so long as the mail is addressed to the defendant's proper address and directed to the attention of the officer or agent by reference to such person's position or title.

Advisory Committee Note

New Rule 7004(i) is intended to clarify that Rule 7004(b)(3) and Rule 7004(h) permit use of a title rather than a specific name in serving a corporation or partnership, unincorporated association or insured depository institution. Service on a corporation or partnership, unincorporated association or insured depository institution at its proper address directed to the attention of the "Chief Executive Officer," "President," "Officer for Receiving Service of Process," or "Officer" (or other similar titles) or, in the case of Rule 7004(b)(3), directed to the attention of the "Managing Agent," "General Agent," or "Agent" (or other similar titles) is sufficient, whether or not a name is also used or such name is correct.

The Subcommittee recommends that the Advisory Committee approve the proposed amendments and committee note and submit them to the Standing Committee for approval and publication.

TAB 5C

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON BUSINESS ISSUES

SUBJECT: SBRA RULES FOR PUBLICATION

DATE: MARCH 2, 2020

The interim rules that the Advisory Committee issued in response to the enactment of the Small Business Reorganization Act ("SBRA") took effect as local rules or standing orders on February 19, the effective date of the Act. Now the Advisory Committee will begin the process of promulgating national rules governing cases under subchapter V of chapter 11. The first step in that process is to seek publication of the amended and new rules for comment this summer, along with the SBRA form amendments. This Subcommittee was asked to make a recommendation to the Advisory Committee regarding any changes or additions that are needed to the interim rules for which publication will be sought.

The SBRA rules consist of the following:

- **Rule 1007** (Lists, Schedules, Statements, and Other Documents; Time Limits),
- **Rule 1020** (Small Business Chapter 11 Reorganization Case),
- **Rule 2009** (Trustees for Estates When Joint Administration Ordered),
- **Rule 2012** (Substitution of Trustee or Successor Trustee; Accounting),
- **Rule 2015** (Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status),
- **Rule 3010** (Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13),
- **Rule 3011** (Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13),
- **Rule 3014** (Election Under § 1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case),
- **Rule 3016** (Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case),
- **Rule 3017.1** (Court Consideration of Disclosure Statement in a Small Business Case),
- **new Rule 3017.2** (Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement),

- **Rule 3018** (Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case), and
- **Rule 3019** (Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case).

Because the interim rules just recently went into effect, there is virtually no experience with them so far. As a result, the only suggested changes the Subcommittee is aware of are a few stylistic changes to Rules 3017.2 and 3019 suggested by the style consultants. They are shown below in blue:

1 **Rule 3017.2. Fixing of Dates by the Court in Subchapter**
2 **V Cases in Which There Is No Disclosure Statement**

3 In a case under subchapter V of chapter 11 in which
4 § 1125 does not apply, the court shall:
5 (a) fix a time within which the holders of claims
6 and interests may accept or reject the plan;
7 (b) fix a date on which an equity security holder
8 or creditor whose claim is based on a security must
9 be the holder of record of the security in order to be
10 eligible to accept or reject the plan;
11 (c) fix a date for the hearing on confirmation; and
12 (d) fix a date for ~~transmission of~~ transmitting the
13 plan, notice of the time within which the holders of
14 claims and interests may accept or reject ~~the plan~~ it,
15 and notice of the date for the hearing on
16 confirmation.

1 **Rule 3019. Modification of Accepted Plan in a Chapter 9**

2 **Municipality or a Chapter 11 Reorganization Case**

3 * * * * *

4 (b) MODIFICATION OF PLAN AFTER

5 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If

6 the debtor is an individual, a request to modify the plan under

7 § 1127(e) of the Code is governed by Rule 9014. The request

8 shall identify the proponent and shall be filed together with

9 the proposed modification. The clerk, or some other person

10 as the court may direct, shall give the debtor, the trustee, and

11 all creditors not less than 21 days' notice by mail of the time

12 fixed to file objections and, if an objection is filed, the

13 hearing to consider the proposed modification, unless the

14 court orders otherwise with respect to creditors who are not

15 affected by the proposed modification. A copy of the notice

16 shall be transmitted to the United States trustee, together

17 with a copy of the proposed modification. Any objection to

18 the proposed modification shall be filed and served on the

19 debtor, the proponent of the modification, the trustee, and

20 any other entity designated by the court, and shall be

21 transmitted to the United States trustee.

22 (c) ~~MODIFICATION OF~~ MODIFYING A PLAN

23 AFTER CONFIRMATION IN A SUBCHAPTER V CASE.

24 In a case under subchapter V of chapter 11, a request to

25 modify the plan under § 1193(b) or (c) of the Code is

26 governed by Rule 9014, and the provisions of this Rule

27 3019(b) apply.

The only concern the Subcommittee had about the stylistic suggestions is that the proposed change to Rule 3019(c) would make that title inconsistent with the titles of subdivision (a) (MODIFICATION OF PLAN BEFORE CONFIRMATION) and subdivision (b) (MODIFICATION OF PLAN AFTER CONFIRMATION IN INDIVIDUAL DEBTOR CASE). The Subcommittee concluded that the title of (c) should be kept as it is for now and that the style consultants' changes be made in the restyling process.

Accordingly, the Subcommittee recommends that the Advisory Committee seek publication of the SBRA rules, including the style changes to Rule 3017.2(d) discussed above.

TAB 5D

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON BUSINESS ISSUES

SUBJECT: COMMENTS ON AMENDMENTS TO RULES 3007 AND 7007.1

DATE: MARCH 2, 2020

Amendments to Rules 3007(a)(2) and 7007.1 were published for public comment in August. Other than a general statement of support for the amendment to Rule 3007 by the National Conference of Bankruptcy Judges ("NCBJ"), no comments were submitted regarding that rule. The NCBJ also expressed general support for the amendments to Rule 7007.1, but in addition it suggested one change, as did another commenter. The proposed amendments and the comments received are reviewed below. As will be discussed, **the Subcommittee recommends that the Advisory Committee seek approval of Rule 3007(a)(2) as published and that it seek approval of Rule 7007.1 with the change recommended by the NCBJ.**

Rule 3007(a)(2)

The published amendment to this rule and its Committee Note provide as follows:

1

Rule 3007. Objections to Claims

(a) TIME AND MANNER OF SERVICE

* * * * *

(2) *Manner of Service.*

(A) The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated; and

* * * * *

(ii) if the objection is to a claim of an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act, in the manner provided in Rule 7004(h).

* * * * *

Committee Note

Subdivision (a)(2)(A)(ii) is amended to clarify that the special service method required by Rule 7004(h) must be used for service of objections to claims only on insured depository institutions as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813. Rule 7004(h) was enacted by Congress as part of the Bankruptcy Reform Act of 1994. It applies only to insured depository institutions that are insured by the Federal Deposit Insurance Corporation and does not include credit unions, which are instead insured by the National Credit Union Administration. A credit union, therefore, may be served with an objection to a claim according to Rule 3007(a)(2)(A)—by first-class mail sent to the person designated for receipt of notice on the credit union's proof of claim.

Because the only comment submitted was the NCBJ's general statement that it "supports the amendments," the Subcommittee recommends that the Advisory Committee give final approval to the rule as published.

Rule 7007.1

The published amendments to this rule and the accompanying Committee Note provide as follows:

1 **Rule 7007.1. ~~Corporate Ownership~~ Disclosure**
2 **Statement**
3
4 (a) REQUIRED DISCLOSURE. Any
5 nongovernmental corporation that is a party to an adversary

6 proceeding, other than the debtor, ~~or a governmental unit,~~

7 shall file ~~two copies of~~ a statement that identifies any parent

8 corporation and any publicly held corporation~~, other than a~~

9 ~~governmental unit, that directly or indirectly~~ that owns 10%

10 or more of ~~any class of the corporation's equity interests,~~ its

11 stock or states that there ~~are no entities to report under this~~

12 ~~subdivision~~ is no such corporation. The same requirement

13 applies to a nongovernmental corporation that seeks to

14 intervene.

15 (b) TIME FOR FILING; SUPPLEMENTAL

16 FILING. ~~A party shall file the~~ The disclosure statement

17 shall: ~~required under Rule 7007.1(a)~~

18 (1) be filed with ~~its~~ the corporation's first

19 appearance, pleading, motion, response, or other

20 request addressed to the court~~.~~; and

21 (2) be supplemented whenever the

22 information required by this rule changes ~~A~~

23 ~~party shall file a supplemental statement~~

24 ~~promptly upon any change in circumstances~~

25 ~~that this rule requires the party to identify or~~

26 ~~disclose~~.

Committee Note

The rule is amended to conform to recent amendments to Fed. R. Bankr. P. 8012, Fed. R. App. P. 26.1., and Fed. R. Civ. P. 7.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene. Stylistic changes are made to subdivision (b) to reflect that some statements will be filed by nonparties seeking to intervene.

The following comments on this rule were submitted:

National Conference of Bankruptcy Judges (BK-2019-0002-0012) – Rather than conforming to Civil Rule 7.1's terminology "disclosure statement," Rule 7007.1 should retain the terminology "corporate ownership statement." "Disclosure statement" is a bankruptcy term of art with a different meaning. There are 5 other Bankruptcy Rule references to Rule 7007.1 that use the term "corporate ownership statement."

Cheryl Siler (Aderant) (BK-2019-0002-0013) – In order to ensure consistency among all the Federal Rules relating to disclosure statements, we suggest that the word "shall" be revised to "must." This change would align FRBP 7007.1(a) with the language used in Federal Rule of Civil Procedure 7.1(a)(1), Federal Rule of Bankruptcy Procedure 8012(a), and Federal Rule of Appellate Procedure 26.1(a).

Ms. Siler's comment will be acted on when the Part VII rules are restyled. In the meantime, we are continuing to use "shall" rather than "must" so that we can make that change at the same time throughout the rules and not on a piecemeal basis.

The Subcommittee thought that NCBJ's suggestion was well taken. In order to avoid any confusion about the subject of Rule 7007.1 and to avoid inconsistencies with rules that cross-reference Rule 7007.1, the Subcommittee recommends that the current title be retained and that the word "disclosure" in line 16 be changed to "corporate ownership."[1]

[1] The title of the counterpart of this rule for bankruptcy appeals, Rule 8012, is titled, "Corporate Disclosure Statement." The Advisory may want to consider changing it in the restyling process or at some other time.

TAB 5E

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON BUSINESS ISSUES

SUBJECT: COMMENTS ON PROPOSED AMENDMENTS TO RULE 9036

DATE: MARCH 3, 2020

For several years, this Subcommittee has been considering possible amendments to the Bankruptcy Rules to increase the use of electronic noticing and service in the bankruptcy courts. One set of amendments to Rule 9036 (Notice and Service Generally) went into effect on December 1, 2019. Proposed amendments to Rule 2002(g) and Official Form 410 that were published along with the 2019 amendments to Rule 9036—authorizing creditors to designate an email address on their proofs of claim for receipt of notices and service—were held in abeyance by the Advisory Committee for further consideration by the Subcommittee. Most recently, additional amendments to Rule 9036 were published for public comment last August.

The published amendments to Rule 9036 would encourage the use of electronic noticing and service in several ways. The rule would recognize a court's authority to provide notice or make service through the Bankruptcy Noticing Center ("BNC") to entities that currently receive a high volume of paper notices from the bankruptcy courts. In anticipation of the simultaneous amendments of Rule 2002(g) and Official Form 410, it would also allow courts and parties to serve or provide notice to a creditor at an email address designated on its proof of claim. And it would provide a set of priorities for electronic noticing and service in situations in which a recipient had provided more than one electronic address to the courts.

Seven sets of comments were submitted regarding the proposed amendments to Rule 9036. Most of them were from clerks of court or their staff, and they expressed several concerns about the proposed amendments to Rule 9036, as well as to the earlier published amendments to Rule 2002(g) and Official Form 410. Summaries of those comments are included in Part I of this memorandum. Part II addresses the Subcommittee's consideration of the comments and its recommendation for approval of a modified version of the published rule.

I. Comment Summaries

Rob Lawson (Clerk's Office, Bankr. W.D. Tex.) (BK-2019-0002-0003) – Rule 9036(b)(2) should be revised to require an electronic-notice recipient to maintain and update its electronic address with the bankruptcy clerk. Furthermore, subdivision (c) should state, "The clerk is not required to monitor and act on undelivered notices sent through the court's electronic-filing system." Requiring the clerk's office to monitor bounced-back email notices imposes an administrative burden on it.

Dana McWay (Clerk, Bankr. E.D.Mo.) (BK-2019-0002-0008) – Submitted on behalf of herself and 33 other clerks of court. We support the proposed revision to Rule 9036 that mandates electronic noticing for high-volume paper-notice recipients. But the proposed changes to this rule, Rule 2002(g), and Form 410 that would allow a creditor to designate an email address on its proof of claim for service or notice are "unneeded, problematic, and not supportable." The mandate of electronic noticing for high-volume paper-notice recipients contained in the proposed revised Rule 9036 will serve to accomplish moving the largest volume of notice recipients from paper to electronic in a manner that is efficient, automated, and does not require human intervention. By contrast, adding a check box and area for an email address on the proof of claim form is neither efficient nor automated and will do little, if anything, to increase the use of EBN. Both the check box and area for an email address introduce the opportunity for a multitude of mistakes by the person completing the proof of claim form, ranging from illegible and unreadable handwriting to transposed lettering and formatting errors. Costly and inefficient human intervention will be required to resolve the errors. It is not clear that this proposal will lead to a cost savings for the judiciary or the creditor community. Even if CM/ECF and other software programs are modified to accommodate the proposed changes, a large volume of proofs of claim will still be received in clerk's offices in paper format, requiring the need for human intervention. The mandate of electronic noticing for high-volume paper-notice recipients has superseded any value previously thought to be afforded by the check-box email option.

Wesley Scott (attorney) (BK-2019-0002-0009) and (**BK-2019-0002-0011)** – Initially opposed the amendments but upon reconsideration supports. Questions how debtor's attorney will know who is registered to get electronic notice through BNC.

David Zimmerman on behalf of the Bankruptcy Noticing Working Group (BK-2019-0002-0010) – BNWG enthusiastically supports Rule 9036(b)'s provisions for electronic service on high-volume paper-notice recipients. However, increasing electronic noticing among low-volume paper-notice recipients benefits the judiciary only if it is automated. Amended Rules 9036(b) and 2002(g)(1) would introduce unnecessary, relatively expensive administrative costs that would reduce or outweigh cost savings of converting to electronic noticing. The increased labor costs of reviewing every claim would promptly roll back the hard-won cost savings that courts have enjoyed from the highly successful EBN program. Over time, the beneficial provisions of amended Rule 9036(b)(2)(B) will further reduce any cost savings that might temporarily be realized by using the claim form to register for electronic noticing. Before the proposed rule changes take effect, the following changes should be implemented: (1) CM/ECF must be updated to allow for an email address to be entered for each creditor and party in each case. (2) Claimants who designate an email address for noticing on a proof of claim form should also be required to provide a mailing address, and all entities (including courts) should have the flexibility to serve notices to that creditor either electronically at the designated email address or in paper form at the designated mailing address. (3) Creditors who want to use a claim form to register for electronic notice should be required to electronically file the proof of claim and enter their email address in CM/ECF at the time they file it. (4) Official Form 410 should be further amended to include language that encourages filers to register for EBN and to file the claim electronically rather than filing it in paper. Finally, proposed amendments to Rule 2002(g)(1) should only be implemented if Rule 9036(b) is amended.

NCBJ (BK-2019-0002-0012) – Includes this rule within its general statement of support for the published amendments.

Ryan Johnson (Clerk, Bankr. N.D. W. Va.) (BK-2019-0002-0014) – To the extent that Rules 2002(g)(1), 9036(b)(2) and Official Form 410 are permissive and not mandatory, we support the proposed amendments, but suggest that an additional committee note be added to Rule 9036 to provide that a clerk's voluntary participation in an electronic service and notice program under Rules 2002(g)(1) and 9036(b)(2) is dependent upon available technology and resources. To the extent that the proposed amendments are intended to impose a mandatory requirement for a clerk to effect electronic service and notice by using an email address submitted on a proof of claim form, this clerk's office, at this time, lacks the means and resources to make such a program successful. But even if our clerk's office cannot immediately avail itself of Rule 9036(b)(2)'s electronic notice and service initiative, we would like to see this option made available to parties in interest through Rule 9036(c). Finally, the proposed amendments to Official Form 410 may inadvertently permit a creditor to only designate an email address for the receipt of notices such as by leaving the physical address lines blank, thus making email the only possible method of service of notice.

Ken Gardner on behalf of the Bankruptcy Clerks Advisory Group (BK-2019-0002-0015) – BCAG supports the comments made by David Zimmerman on behalf of the Bankruptcy Noticing Working Group.

II. The Subcommittee's Deliberations and Recommendation

The Subcommittee noted that there was enthusiastic support for the program to encourage high-volume paper-notice recipients to register for electronic bankruptcy noticing. No comments expressed opposition to it or concerns about it.

The Subcommittee also recognized, however, that many clerks expressed opposition to several other aspects of the proposed Rule 9036 amendments. The concerns fell into 3 categories: clerk monitoring of email bounce-backs; administrative burden of a proof-of-claim opt-in for email noticing and service; and the interplay of the proposed amendments to Rules 2002(g) and 9036.

Clerk monitoring of email bounce-backs. Proposed Rule 9036(d) provides that "[e]lectronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be served." Mr. Lawson expressed concern that this provision imposes an administrative burden on the clerk's office by requiring it to monitor undeliverable emails. He advocated for the addition of a sentence to subdivision (d) that would relieve clerks of that burden. No other comments raised this concern.

The Subcommittee noted that the provision to which Mr. Lawson objects is also included in the version of Rule 9036 that went into effect last December. The same provision is also in Rule 8011(c)(3), which became effective in 2018. In considering the provision in Rule 8011, the Advisory Committee spent considerable time discussing this provision, and it determined that all users of electronic noticing and service—clerks as well as parties—should be required to make effective service or noticing, which means continuing their efforts if they become aware that their prior attempt failed. The Subcommittee therefore recommends that the language in question not be changed.

It did, however, decide that the other part of Mr. Lawson's suggestion—that an additional sentence be added that would make the electronic notice recipient responsible for maintaining and updating its electronic address with the bankruptcy clerk—would be helpful. That directive could reduce the number of bounce-backs. The Subcommittee therefore recommends that the following sentence be added to the end of subdivision (d): "It is the recipient's responsibility to keep its electronic address current with the clerk."

Administrative burden of allowing a creditor to opt-in to email noticing and service on its proof of claim. This was the chief concern of the clerks and the Bankruptcy Noticing Working Group and was a concern that was expressed when the amendments to Rules 2002(g), 9036, and Form 410 were published in 2017. Without an automated process to retrieve email addresses in proofs of claim, clerks say that they will have to manually review every proof of claim to determine if the email box was checked and an email address was listed. According to Ms. McWay, even automation will not solve all the problems because paper proofs of claim will still be filed, and they will contain errors and illegible entries that will require staff time to resolve. Several of the comments noted that the high-volume paper-notice program will produce significant savings for the courts, and that any savings resulting from low-volume users opting into email notice will be outweighed by administrative costs.

As Mr. Johnson recognized in his comment, the proposal for email opt-in on proofs of claim would not be just for the benefit of the judiciary, which already has the Electronic Bankruptcy Noticing program. Instead, it was also intended to benefit parties, who could save mailing costs in serving creditors who opt into email notice. Because the Subcommittee has determined that parties cannot be forced to accept electronic service and notice, an opt-in procedure seemed to be the best approach. And providing that opportunity in the proof of claim

seemed the best mechanism to pursue since Rule 2002(g)(1)(A) already provides that "a proof of claim filed by a creditor . . . that designates a mailing address constitutes a filed request to mail notices to that address." Under subdivision (g)(1) of that rule, notices required to be mailed to a creditor "shall be addressed as such entity . . . has directed in its last request filed in the particular case." The amendment to Rule 2002(g) published in 2017 would expand that rule to include email addresses, and Rule 9036 would recognize transmission to that email address as a proper means of service or noticing.

In deciding not to go forward in 2018 with the amendments to Rule 2002(g) and Form 410 that would provide for opting into email service, the Advisory Committee accepted the concerns that were raised then by clerks about the lack of an automated means of retrieving the designated email addresses. The Committee was told then that such automation would not be feasible until 2021. The decision in 2019 to propose the new amendments to 9036, with the anticipation that approval would also be sought for the Rule 2002(g) and Form 410 amendments, was made with the expectation that automation would be feasible by the amendments' December 1, 2021 effective date.

Ms. McWay says, however, that even with automation, the burden on the clerk's office will still be too great because of the number of paper proofs of claim that will be filed. While the comment from the Bankruptcy Noticing Working Group suggests some ways that burden might be reduced, the Subcommittee recommends that the proof-of-claim check-box option not be pursued. Deciding not to go forward with the proposed amendments to Rule 2002(g) and Official Form 410, and deleting references to that option in Rule 9036, would allow the courts to receive the benefits of the high-volume paper-notice program, which is anticipated to result in significant savings to the judiciary, without imposing what many clerks perceive as an undue

burden on them of having to review proofs of claim for email addresses. This approach does not provide any benefit to parties, however, because they will not have access to electronic addresses registered with the BNC, but it is anticipated that future improvements to CM/ECF will allow the entry of email addresses in a way that will be accessible to parties as well as to those within the court system. Language proposed by the Subcommittee in Rule 9036(b)(2) would allow for that future possibility.

Interplay of the proposed amendments to Rules 2002(g) and 9036. Both the Bankruptcy Noticing Working Group and Mr. Johnson commented that service or noticing at a designated email address should be optional, not mandatory, on the part of the sender. There should be flexibility in the rules that would still allow service and noticing by mail, they said. When the Subcommittee proposed the amendments to Rule 9036, it intended to provide that flexibility. The published rule provides that both clerks and entities "may" send notice or serve a paper by electronic means, and the Committee Note states that "Rule 9036 does not preclude noticing and service by physical means otherwise authorized by the court or these rules."

The proposed amendment to Rule 2002(g), however, seems to make service or noticing at a designated email address mandatory. That rule would provide that notice "shall be addressed" as the creditor designated in its proof of claim. If a creditor designated only an email address, that address would have to be used.

If the Subcommittee's recommendation not to go forward with the proposed amendments to Rule 2002(g) and Official Form 410 is accepted, this concern will no longer be an issue. Amended Rule 9036 by itself will make the use of electronic noticing and service optional.

Should the Advisory Committee, however, decide to go forward with the amendments to Rule 2002(g) and Official Form 410, it might consider suggestions by the Bankruptcy Noticing

Working Group for making clear that the use of electronic service and noticing is optional. One way would be to require that a creditor that designates an email address in its proof of claim also designate a mailing address. It suggested that a new subparagraph (C) be added to Rule 2002(g)(1) that states, "A proof of claim that designates an electronic address must also designate a physical mailing address. Service to either designated address satisfies subsection (g)(1) of this rule." Alternatively, it said that Rule 2002(g) could remain unamended and the following language could be added to Rule 9036(b)(2): "For any recipient, the clerk may send notice or serve a paper by electronic means that the recipient consented to in writing, including by designating an electronic address for receipt of notices in a proof of claim form." The reference to Rule 2002(g) would be omitted.

Recommendation: The Subcommittee recommends that the Advisory Committee give final approval to the amendments to Rule 9036 set out below and that it take no further action on the previously published amendments to Rule 2002(g) and Official Form 410.

1 **Rule 9036. Notice and Service ~~Generally~~ by Electronic**
2 **Transmission**
3
4 (a) IN GENERAL. This rule applies ~~W~~whenever
5 these rules require or permit sending a notice or serving a
6 paper by mail or other means.~~, the clerk, or some other~~
7 ~~person as the court or these rules may direct, may send the~~
8 ~~notice to or serve the paper on~~
9 (b) NOTICES FROM AND SERVICE BY THE
10 COURT.

11 (1) *Registered Users.* The clerk may send

12 notice to or serve a registered user by filing the notice

13 or paper ~~it~~ with the court's electronic-filing system.

14 (2) *All Recipients.* For any recipient, the

15 clerk may send notice or serve a paper ~~Or it may be sent~~

16 ~~to any person~~ by ~~other~~ electronic means that the ~~person~~

17 recipient consented to in writing, including by

18 designating an electronic address for receipt of notices.

19 But these exceptions apply:

20 (A) if the recipient has registered an

21 electronic address with the Administrative Office

22 of the United States Courts' bankruptcy-noticing

23 program, the clerk shall send the notice to or serve

24 the paper at that address; and

25 (B) if an entity has been designated by the

26 Director of the Administrative Office of the

27 United States Courts as a high-volume paper-

28 notice recipient, the clerk may send the notice to

29 or serve the paper electronically at an address
30 designated by the Director, unless the entity has
31 designated an address under § 342(e) or (f) of the
32 Code.
33 (c) NOTICES FROM AND SERVICE BY AN
34 ENTITY. An entity may send notice or serve a paper in the
35 same manner that the clerk does under (b), excluding
36 (b)(2)(A) and (B).
37 (d) COMPLETING NOTICE OR SERVICE. ~~In~~
38 ~~either of these events,~~ Electronic ~~service or~~ notice or service
39 is complete upon filing or sending but is not effective if the
40 filer or sender receives notice that it did not reach the person
41 to be served. It is the recipient's responsibility to keep its
42 electronic address current with the clerk.
43 (e) INAPPLICABILITY. This rule does not apply
44 to any ~~pleading or other~~ paper required to be served in
45 accordance with Rule 7004.

Committee Note

The rule is amended to take account of the Administrative Office of the United States Courts' program for providing notice to high-volume paper-notice recipients. Under this program, when the Bankruptcy Noticing Center ("BNC") has sent by mail more than a designated number of notices in a calendar month (initially set at 100) from bankruptcy courts to an entity, the Director of the Administrative Office will notify the entity that it is a high-volume paper-notice recipient. As such, this "threshold notice" will inform the entity that it must register an electronic address with the BNC. If, within a time specified in the threshold notice, a notified entity enrolls in Electronic Bankruptcy Noticing with the BNC, it will be sent notices electronically at the address maintained by the BNC upon a start date determined by the Director. If a notified entity does not timely enroll in Electronic Bankruptcy Noticing, it will be informed that court-generated notices will be sent to an electronic address designated by the Director. Any designation by the Director, however, is subject to the entity's right under § 342(e) and (f) of the Code to designate an address at which it wishes to receive notices in chapter 7 and chapter 13 cases, including at its own electronic address that it registers with the BNC.

The rule is also reorganized to separate methods of electronic noticing and service available to courts from those available to parties. Both courts and parties may serve or provide notice to registered users of the court's electronic-filing system by filing documents with that system. Both courts and parties also may serve and provide notice to any entity by electronic means consented to in writing by the recipient. Only courts may serve or give notice to an entity at an electronic address registered with the BNC as part of the Electronic Bankruptcy Noticing program, and any such address will supersede for court-generated notices an electronic address otherwise designated.

The rule is amended in subdivision (d) to impose on a recipient of electronic notice the responsibility for maintaining and updating its electronic address with the clerk's office.

The title of the rule is revised to more accurately reflect the rule's applicability to methods of electronic noticing and service. Rule 9036 does not preclude noticing and service by physical means otherwise authorized by the court or these rules.

TAB 6

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TAB 6A

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: PROPOSAL REGARDING RULE 2005(c)

DATE: Mar. 6, 2020

Judge Brian Fenimore of the Western District of Missouri brought to the attention of Judge Dennis R. Dow that Federal Rules of Bankruptcy Procedure 2005(c) contains references to repealed provisions of the Criminal Code. Rule 2005(c) currently reads as follows:

> (c) CONDITIONS OF RELEASE. In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the provisions and policies of title 18, U.S.C., § 3146(a) and (b).

Sections 3141 through 3151 of the Title 18 were repealed by the Bail Reform Act of 1984, Pub. L. No. 98-473, Title II, § 203(a), 98 Stat. 1979 (1984), and replaced by new provisions dealing with bail. The current version of 18 U.S.C. § 3146 deals not with conditions to assure attendance or appearance, but with penalties for failure to appear. The topic of conditions is in 18 U.S.C. § 3142. Although much of Section 3142 is completely inapplicable to the subject of Federal Rule of Bankruptcy Procedure 2005(c) (conditions designed to assure attendance for examination or appearance before the court), the easiest technical fix is that suggested by Judge Fenimore, which is simply replacing the reference to "§ 3146(a) and (b)" in rule 2005(c) with a reference to "§ 3142."

The Subcommittee recommended that change to the Advisory Committee at its spring meeting to be approved without publication. Although the Advisory Committee agreed with that recommendation, the Standing Committee decided to insert the word "relevant" before the word "provisions" and to publish the proposed modifications to the rule. The form in which the rule was published is as follows:

> Rule 2005. Apprehension and Removal of Debtor to Compel Attendance for Examination
>
> * * * * *
>
> (c) CONDITIONS OF RELEASE. In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the relevant provisions and policies of title 18 U.S.C. § 3142.

Committee Note

> The rule is amended to replace the reference to 18 U.S.C. § 3146(a) and (b) with a reference to 18 U.S.C. § 3142. Sections 3141 through 3151 of Title 18 were repealed by the Bail Reform Act of 1984, Pub. L. No. 98-473, Title II, § 203(a), 98 Stat. 1979 (1984), and replaced by new provisions dealing with bail. The current version of 18 U.S.C. § 3146 deals not with conditions to assure attendance or appearance, but with penalties for failure to appear. The topic of conditions is in 18 U.S.C. § 3142. Because 18 U.S.C. § 3142 contains provisions bearing on topics not included in former 18 U.S.C. § 3146(a) and (b), the rule is also amended to limit the reference to the "relevant" provisions and policies of § 3142.

The only mention of the proposed change in the comments was a supportive statement from the National Conference of Bankruptcy Judges. Therefore, the Subcommittee recommends that the Advisory Committee give final approval to the amended Rule 2005(c) and accompanying committee note as published.

TAB 6B

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON CONSUMER ISSUES

SUBJECT: FURTHER CONSIDERATION OF PROPOSED AMENDMENTS TO RULE 3002.1

DATE: MARCH 3, 2019

The Advisory Committee received suggestions 18-BK-G and 18-BK-H from the National Association of Chapter Thirteen Trustees and the American Bankruptcy Institute's Commission on Consumer Bankruptcy regarding amendments to Rule 3002.1 (Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence). The suggestions, which were referred to this Subcommittee, were made in response to the two groups' perception that there is an insufficient degree of compliance with the current rule, as well as a need for a more streamlined and familiar procedure for determining the status of a mortgage claim in a chapter 13 case.

Among the suggested amendments are the following:

- new provisions in subdivision (b) governing notice of payment changes for home equity lines of credit;
- specification of the effective date of a payment change if the claim holder's notice is untimely;
- the requirement of a mid-case, as well as end-of-case, review of the status of the mortgage claim;
- use of a motion, rather than a notice, procedure for determining the status of the mortgage claim;

- specification of the content of a trustee's motion, the claim holder's response, and the court order regarding the status of the mortgage claim; and
- the creation of additional sanctions for the claim holder's failure to respond to the trustee's motion to determine the status of the mortgage claim.

The Subcommittee began its consideration of the proposed amendments last summer by reviewing a draft presented by a working group of the Subcommittee. During its most recent conference call, the Subcommittee began reviewing an alternative draft presented by Subcommittee member Deb Miller, along with drafts of implementing forms. The alternative draft would simplify the mid-case review of the status of the mortgage, an approach that has been endorsed by several of members of the groups that made the original suggestions. The Subcommittee plans to continue its review of the proposed amendments and forms, and it hopes to have drafts to present to the Advisory Committee for discussion at the fall meeting.

TAB 6C

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY FULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 19-BK-F – Rule 3002(c)(6)

DATE: March 9, 2020

The Advisory Committee received a suggestion from George Weiss of Potomac, MD, 19-BK-F, with respect to Fed. R. Bankr. P. 3002(c)(6)(A). Rule 3002 requires creditors to file proofs of claim for their claims to be allowed, and specifies, in Rule 3002(c), the deadline for filing those proofs of claim in cases filed under chapter 7, 12 and 13. Rule 3002(c) then provides certain exceptions, including for domestic creditors, in clause (1), when "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a)." Mr. Weiss noted that this would not permit an extension of the deadline for creditors who actually did not get notice either because they were omitted from the matrix or were listed with an improper address.

The Subcommittee considered this suggestion at its last meeting. The memorandum of the Subcommittee to the Advisory Committee following that meeting is attached as Exhibit A. As noted, the Subcommittee then recommended that the Advisory Committee consider amending the Rule in one of two ways.

The first would be to combine clauses (A) and (B) and allow an extension if "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim." That is the standard now applicable to foreign creditors under Rule 3002(c)(2). Language to effectuate that approach appears on page 9 in Appendix A. The second would be to retain a different standard for domestic creditors, and allow an extension for them only if "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to include the creditor's correct name or its proper address on the list of creditors' names and addresses required by Rule 1007(a)." Language to effectuate that approach appears on page 10 in Appendix A. The Subcommittee made no recommendation as between the two approaches at its last meeting, but referred the matter to the Advisory Committee.

The Advisory Committee recommitted the matter to the Subcommittee to make a recommendation as to the appropriate approach at the next meeting of the Advisory Committee.

Since that last meeting of the Subcommittee, several new cases have been decided with respect to Rule 3002(c)(6)(A) that may be of interest to the Subcommittee.

In *In re* Bales, 2019 WL 3436870 (Bankr. E.D. Ky. July 30, 2019), the debtor omitted the creditor from both the schedules and mailing list when debtor filed his chapter 13 case. Creditor did not receive notice of the bankruptcy case prior to the deadlines for filing proofs of clam or objecting to discharge. After debtor subsequently amended his Schedule F to add the creditor, creditor filed an untimely proof of claim, to which the Trustee objected. Creditor sought an extension of time to file a proof of claim under Rule 3002(c)(6)(A) (among other theories). Following *In re* Fryman (decided in the same district a month earlier and cited in the attached memorandum), Judge Caryn L. Belobraidich held that Rule 3002(c)(6)(A) "does not provide a basis to grant Creditor an extension of time to file a proof of claim."

Judge Michelle M. Harner reached the same conclusion in Brenner's Restoration, Inc. v. Somerville (*In re* Somerville), 2019 WL 4923928 (Bankr. D. Md. Oct. 4, 2019). Again, debtor failed to list the creditor in her original or any amended bankruptcy schedules, and creditor was snot included on the Creditor List and did not receive notice of debtor's chapter 13 bankruptcy filing until after creditor sought to garnish debtor's wages to satisfy its claim after the deadline for filing proofs of claim in the case. At that time creditor sought authority to file an untimely proof of claim. Judge Harner concluded that Rule 3002(c)(6)(A) permits such an extension only if the debtor fails to timely file the list of creditors' names and addresses required by Rule 1007(a). If that list is timely filed, as it was here, there is no basis for an extension of time under Rule 3002(c)(6). Finding the language of the rule "unambiguous," the court declined to grant an extension of time, but noted that the creditor's claim against the debtor would not be discharged under Section 1328(a).

By contrast, in *In re* Vanderpool, 2019 WL 4880065 (Bankr. D. Colo. Aug. 28, 2019), Judge Elizabeth E. Brown concluded that reading Rule 3002(c)(6)(A) literally would "render it all but superfluous." Debtor had timely filed schedules and the Rule 1007(a) list of creditors, but inadvertently omitted creditor from both. Creditor first learned of debtor's chapter 13 case about one month after the claims bar date. Following *In re* Mazik (described in the attached memorandum), Judge Brown interpreted Rule 3002(c)(6)(A) to permit an extension of the date for filing proofs of claim whenever the debtor fails to timely file "a full and complete" creditor matrix, as when a creditor's name is omitted. She therefore granted the motion for an extension. In so doing, she noted that the Advisory Committee Notes to the 2017 Amendment to Rule 3002(c)(6)(A) "shed very little light on what the drafters intended when a debtor omits a creditor from a timely-filed Matrix or misidentifies a creditor in a manner that causes the creditor to not learn of the bankruptcy until after the bar date for filing claims." She continued, "If the purpose

of the rule is to provide the Court with discretion when a creditor's due process rights have been abridged, then this broader reading will support that goal."

Judge Helen E. Burris also granted an extension to a creditor whose name was omitted from the chapter 13 schedules, statements and list of creditors in In re *Jackson*, 2019 WL 397580 (Bankr. D.S.C. July 24, 2019). The court concluded that "[b]y omitting [creditor], Debtors failed in their duties under § 521 and Rule 1007(a)." If the debtors fail to amend the schedules and list or do not do so on a timely basis "and, as a result, the creditor has insufficient notice under the circumstances to provide a reasonable time to file a claim, then an extension under Rule 3002(c)(6) may be appropriate" (citing *Mazik*).

In a final case, In re Price, 2019 WL 2895006 (Bankr. W.D. Va. July 3, 2019), Judge Paul M. Black declined to grant an extension under Rule 3002(c)(6)(A) to a creditor for whom the debtor provided an incorrect address on the list of creditors, but who actually received notice prior to the meeting of creditor and prior to the claims bar date. The court concluded that this creditor had received adequate notice giving her reasonable time to file her proof of claim and therefore Rule 3002(c)(6)(A) was not applicable.

The interpretation of amended Rule 3002(c)(6)(A) is obviously causing serious problems in the bankruptcy courts. The Subcommittee approved an amendment to Rule 3002(c)(6) consistent with the first approach described above. The language appears on page 9 in Appendix A. The Subcommittee selected this approach over the alternative because it creates a uniform standard for domestic and foreign creditors, and provides bankruptcy judges the maximum amount of discretion.

The Subcommittee recommends that the Advisory Committee approve the proposed amendments to Rule 3002(c)(6) and committee note for submission to the Standing Committee for approval and publication.

Appendix A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 19-BK-F – Rule 3002(c)(6)

DATE: AUG. 24, 2019

We have received a suggestion from George Weiss of Potomac, MD, 19-BK-F, with respect to Fed. R. Bankr. P. 3002(c)(6)(A). Rule 3002 requires creditors to file proofs of claim for their claims to be allowed, and specifies, in Rule 3002(c), the deadline for filing those proofs of claim in cases filed under chapter 7, 12 and 13. Rule 3002(c) then provides certain exceptions. Among those is that described in Rule 3002(c)(6) which provides:

> (6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that:
>
> (A) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a); or
>
> (B) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim, and the notice was mailed to the creditor at a foreign address.

Mr. Weiss suggests that the language of Rule 3002(c)(6)(A), read literally, allows a court to extend the time for filing a proof of claim to a domestic creditor only if the debtor failed to timely file the list of creditors' names and addresses provided under Rule 1007(a). This, Mr. Weiss states, is "probably not what the committee meant." He notes that courts have read the rule literally, denying relief to creditors who actually did not get notice either because they were omitted from the matrix or were listed with an improper address. He asserts that it is arbitrary to treat creditors who do not receive notice differently merely because they were or were not listed on the Rule 1007(a) list, and that the rule should be amended accordingly.

History of Rule 3002(c)(6)

Prior to December 1, 2017, Rule 3002(c)(6) provided a more limited exception that was substantively identical to current clause (B). The amendment to Rule 3002(c)(6) originated with

the Chapter 13 Plan Working Group (composed of Judge Elizabeth L. Perris, John Rao, and Prof. Troy A. McKenzie) in 2012 as it began its work on a national Chapter 13 plan. The Working Group proposed that Rule 3002(a) be modified to require secured creditors to file proofs of claim, and that Rule 3002(c) be amended to shorten the time periods for filing proofs of claim so that the filing deadline would occur before plan confirmation hearing dates under § 1324(b) and § 1221 of the Code.

The Working Group reported to the Advisory Committee at the September 2012 meeting as follows:

> "The Working Group did not initially suggest any amendment to the exceptions to the deadline set out in Rule 3002(c). After further consideration, however, the Working Group has proposed a limited exception for creditors who were not timely listed in the mailing list required by Rule 1007(a)(1) to contain the name and address of creditors included or to be included in the debtor's schedules."

The language proposed by the Working Group for the amended Rule 3002(c)(6) was as follows:

> (6) If the debtor fails to include a creditor on the list required by Rule 1007(a)(1), filed with the petition, or if notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days from the date of the court's determination if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

The minutes of the Sept. 2012 Advisory Committee meeting do not indicate that there were any comments on the draft language of Rule 3002(c)(6). However, by the time of the next Advisory Committee meeting in April 2013, the Working Group stated that it had "refined the language of the draft that provides an explicit exception to the bar date when the debtor fails to file a timely list of creditors' names and addresses under Rule 1007(a)(1)." No longer did a creditor who was excluded from the Rule 1007(a)(1) list of creditors have a right to seek extension of the deadline for filing a proof of claim. Instead, creditors could seek an extension only of the debtor failed to timely file the required list of creditors. The record does not identify the source of the change or the reasons for it. The revised version read as follows:

> (6) If the debtor fails to timely file the list required by Rule 1007(a) containing the name and address of a creditor included or to be included on Schedules D, E, F, G, and H as prescribed by the Official Forms, or if notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days from the date of the court's

> determination if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

Again, the minutes of the April 2013 Advisory Committee meeting do not indicate any comments on this language, but when the Rule was presented to the Standing Committee in June 2013 to seek authorization for publication, it had been amended to read as follows:

> (6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time to file a proof of claim by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that
>
> (A) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a), or
>
> (B) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim, and notice of the time to file a proof of claim was mailed to the creditor at a foreign address.

The changes may have been the result of restyling.

The Committee Note with respect to this paragraph read as follows (and was not modified from the original draft of the amendment presented to the Advisory Committee in April 2013):

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

The amendments to Rule 3002(c) were published in 2013 and again in 2014 with the proposed chapter 13 plan. There were several comments on Rule 3002(c)(6) made during each publication period.

◦ Bankruptcy Judge Joe Lee of the E.D. Ky. found the amendments to Rule 3002(c)(6) "sufficiently ambiguous that practitioners and even some courts could reasonably misinterpret the amendment . . . to settle the long-running dispute over whether bankruptcy courts may allow late-filed, tardily scheduled claims." He proposed that the proposed rule be modified to make it clear whether it intended to permit extensions for creditors who receive insufficient notice because an incomplete list of creditors was filed.

- Judge S. Martin Teel, Jr. also pointed out that the proposed Rule 3002(c)(6) "fails to address the creditor whose name and address was not included on the list of creditors or was erroneously listed on that list" or who was listed on an amended list and does not get timely notice. He recommended that all creditors be permitted an extension if the notice was insufficient "to give the creditor a reasonable time to file a proof of claim."

- Henry E. Hildebrand III also called the draft Rule 3002(c)(6) "potentially ambiguous when a debtor has timely filed a list of creditors but the list omits a creditor." He suggested changing the language to read "because the debtor failed to file a list of creditors' names and addresses that complied with Rule 1007(a)."

- The National Conference of Bankruptcy Judges called the provisions of Rule 3002(c)(6) and (7) unclear "whether they provide the exclusive bases for granting extensions" and recommended adding the word "only" before the words "if the court finds that." The NCBJ supported this limitation, stating that "Historically, the grounds for permitting extensions have been limited, and the better policy is to limit litigation about timeliness to disputes over what is critical to ensure procedural fairness."

- The Pennsylvania Bar Association expressed its concern that the amendment "could be misinterpreted to resolve the dispute over the authority of bankruptcy courts to allow late-filed, tardily scheduled claims." They opposed the amendment.

- The States' Association of Bankruptcy Attorneys said that the proposed amendment "does not adequately cover the potential scenarios" when a creditor is omitted from the list, or lists a creditor with an incorrect address, and recommended revisions to permit extensions under these circumstances.

- David S. Yen, of Chicago, IL, recommended further time limits on late filing of proofs of claim by those permitted to file under proposed Rule 3002(c)(6), suggesting an outside limit of 180 days from the filing date (as well as other limitations).

- The National Conference of Bankruptcy Judges suggested that the standard for extending the deadline for filing proofs of claim that is applicable to foreign creditors (if the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim) should be equally applicable to domestic creditors.

- Ryan W. Johnson, Clerk of the Bankruptcy Court for the N.D. W. Va., opposed the amendments to Rule 3002(c)(6) in their entirety because "extensions of the time to timely file a proof of claim . . . unnecessarily creates legal and practical uncertainty to the process for the allowance and payment of claims under all chapters." He also read the proposed amendments to Rule 3002(c)(6) and (7) as "illustrative examples" rather than "limiting examples" because the introductory language states that the "motion may be granted" rather than "the motion shall only be granted." Even if the language were

> intended to be limiting, he found the language ambiguous, as for example when the debtor files an amended list of creditors including a formerly omitted creditor. He noted that, if Rule 3002(c)(6) applies only when the debtor failed to file the original list of creditors with the petition, it would be "an extremely rare case when subsection (6)(A) would apply" because "[t]he court would have to specifically order that the list not be filed with the petition and the case must survive automatic dismissal on the 45th day[ ] under 11 U.S.C. § 521(i)."

Despite all these comments from well-regarded individuals and organizations on Rule 3002(c)(6), there is nothing in the record that indicates that the comments were considered by the Advisory Committee or by the Standing Committee. There is no reference to any of these comments in the agendas of either committee in 2014 or 2015, and Rule 3002(c)(6) remained unchanged after publication.

Cases Applying Rule 3002(c)(6)

Since its effective date of December 1, 2017, only five published cases have applied Rule 3002(c)(6). None of the bankruptcy judges has found the Rule ambiguous, and they consistently barred non-governmental domestic creditors from seeking extensions of the time to file a proof of claim if the debtor timely filed a list of creditors under Rule 1007(a), even if the creditor was not on that original list, *see In re* Fryman, No. 18-20660, 2019 WL 2612763 (Bankr. E.D. Ky. June 25, 2019), or was on the list but had an erroneous address, *see In re* Wulff, 598 B.R. 459 (Bankr. E.D. Wis. 2019), or was on the list with an appropriate address but claimed the creditor did not receive the notice, *see In re* Wood, No. 18-00639, 2019 WL 1398180 (Bankr. D.D.C. Mar. 26, 2019). *See also In re* Lovo, 584 B.R. 79 (Bankr. S.D. Fla. 2018) (failure to receive notice for reason other than specified in Rule 3002(c)(6) is not a basis for extending time to file proof of claim). The only creditor who obtained an extension was one who was listed in the bankruptcy schedules but was omitted from the list of creditors filed under Rule 1007(a), because the court concluded that the filed list did not comply with Rule 1007(a), *see In re* Mazik, 592 B.R. 812 (Bankr. E.D. Pa. 2018).

If the intent of the Rule is to limit the grounds for seeking an extension for filing a proof of claim to one, i.e., the failure of the debtor to file a list of creditors in compliance with Rule 1007(a), apparently the courts are interpreting the Rule in exactly the way it was intended.

Recommendation

A debtor who fails to file a list of creditors under Rule 1007(a) (as required by Section 521(a)(1)(A)) may see its case dismissed under Section 707(a)(3), Section 1112(b)(1) and 1112(b)(4)(F) or Section 1307(c). If the Rule was intended to extend the bar date for domestic creditors only if no list of creditors was filed at all, it will never have any practical impact. Indeed, there are no reported cases in which the debtor failed to file a list of creditors under Rule 1007(a) and, as a result, the creditor obtained an extension for filing a proof of claim.

The prior comments on proposed Rule 3002(c)(6), as well as the current suggestion of Mr. Weiss, suggest that the Advisory Committee should consider expanding the Rule. If a creditor is not properly listed on the Rule 1007(a) list of creditors and does not receive notice of the bar date (in a case in which proofs of claim are to be filed), the claim may not be discharged (Section 523(a)(3)), but the holder may lose any opportunity to share in distributions.

One approach would be to permit creditors to obtain extensions of the time for filing proofs of claim whenever the court determines that "the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim," the standard now applicable only to foreign creditors. An amendment to Rule 3002(c)(6) to effectuate this approach would read as follows:

(6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time to file a proof of claim by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that

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

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

Committee Note

Rule 3002(c)(6) is amended to provide a single standard for granting motions for an extension of time to file a proof of claim, whether the creditor has a domestic address or a foreign address. If the notice to such creditor was "insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim," the court may grant an extension.

An alternative approach would be to allow the court to grant an extension of the deadline to file a proof of claim only if the creditor's name or address was not included on the Rule 1007(a) list and therefore the notice was insufficient. A more limited amendment might read as follows:

1 (6) On motion filed by a creditor before or after the expiration of the time
2 to file a proof of claim, the court may extend the time to file a proof of claim by
3 not more than 60 days from the date of the order granting the motion. The motion
4 may be granted if the court finds that
5 (A) the notice was insufficient under the circumstances to give the
6 creditor a reasonable time to file a proof of claim because the debtor failed to
7 ~~timely file~~include the creditor's correct name or its proper address on the list of
8 creditors' names and addresses required by Rule 1007(a), or
9 (B) the notice was insufficient under the circumstances to give the creditor
10 a reasonable time to file a proof of claim, and notice of the time to file a proof of
11 claim was mailed to the creditor at a foreign address.
12
13 Committee Note
14
15 Rule 3002(c)(6)(A) is amended to permit creditors to seek an extension of time to file a
16 proof of claim if their correct names or proper addresses were not included on the list of creditors
17 filed by the debtor under Rule 1007(a). If the list of creditors has the correct name of the creditor
18 and its proper address, the fact that the creditor did not receive notice is not a basis for a motion
19 to extend the time to file a proof of claim.
20
21
22
23

The Subcommittee has not made any recommendation as to the appropriate approach, but wishes to raise the issue with the Advisory Committee.

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TAB 7

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TAB 7A

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: SBRA FORMS FOR PUBLICATION

DATE: MARCH 2, 2020

The new and amended forms that the Advisory Committee promulgated in response to the enactment of the Small Business Reorganization Act ("SBRA") took effect on February 19, the effective date of the Act. Unlike the interim SBRA rules, the forms were officially issued—under the Advisory Committee's delegated authority to make conforming and technical amendments to Official Forms, subject to subsequent approval by the Standing Committee and notice to the Judicial Conference. Nevertheless, the Advisory Committee has committed to publishing them for comment this summer, along with the SBRA rule amendments, in order to ensure that the public has a thorough opportunity to review them. The Subcommittee considered whether any changes or additions are needed to the forms that will be published, and it recommends that they be published as they now appear, along with a minor amendment to an additional form.

The SBRA Official Forms consist of the following:

- Official Form 101 (*Voluntary Petition for Individuals Filing for Bankruptcy*),
- Official Form 201 (*Voluntary Petition for Non-Individuals Filing for Bankruptcy*),
- Official Form 309E1 (*Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors)*),
- Official Form 309E2 (*Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors under Subchapter V)*),
- Official Form 309F1 (*Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships)*),
- Official Form 309F2 (*Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships under Subchapter V)*),
- Official Form 314 (*Ballot for Accepting or Rejecting Plan*),

- Official Form 315 (*Order Confirming Plan*), and
- Official Form 425A (*Plan of Reorganization for Small Business Under Chapter 11*).

Because the forms only recently went into effect, there has been virtually no experience with them so far. As a result, the Subcommittee is aware of only one suggestion for a needed change to an additional form. A staff member at the Administrative Office of the Courts has pointed out the need to add an exception to the instructions set out at the beginning of Official Form 122B (*Chapter 11 Statement of Your Current Monthly Income*). It currently begins, "You must file this form if you are an individual and are filing for bankruptcy under Chapter 11." That statement is incorrect for individuals filing under subchapter V of chapter 11. Section 1191(a) and (b) of the Code make § 1129(a)(15) inapplicable in subchapter V cases. The latter provision makes an individual debtor's current monthly income generally relevant in chapter 11 cases because it bases projected disposable income on that amount. In subchapter V cases, however, § 1191(d) defines disposable income without reference to current monthly income. Therefore, the instructions to Official Form 122B need to express an exception for subchapter V cases.

The Subcommittee proposes that the first sentence of those instructions be amended as follows: "You must file this form if you are an individual and are filing for bankruptcy under Chapter 11 (other than under subchapter V)."[1] The accompanying Committee Note would provide as follows:

> Official Form 122B is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. As amended, the initial instruction in the form includes an exception for subchapter V cases. Because Code § 1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.

[1] A similar change was needed for the instruction booklet—Bankruptcy Forms for Individuals. Because those instructions are issued by the Administrative Office of the Courts outside the rulemaking process, Rules Counsel Scott Myers has made that correction.

The Subcommittee recommends that the Advisory Committee seek the publication of the amendment to Official Form 122B and the forms listed on the first page.

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TAB 7A1

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Fill in this information to identify your case:

Debtor 1 ____
First Name Middle Name Last Name

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

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

Case number ____________________________________
(If known)

❒ Check if this is an amended filing

Official Form 122B

Chapter 11 Statement of Your Current Monthly Income

12/21

You must file this form if you are an individual and are filing for bankruptcy under Chapter 11 (other than under Subchapter V). If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

Part 1: Calculate Your Current Monthly Income

1. **What is your marital and filing status?** Check one only.

❑ **Not married.** Fill out Column A, lines 2-11.

❑ **Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.

❑ **Married and your spouse is NOT filing with you.** Fill out Column A, lines 2-11.

Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case. 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result.
Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write $0 in the space.

	Column A **Debtor 1**	*Column B* **Debtor 2**
2. **Your gross wages, salary, tips, bonuses, overtime, and commissions** (before all payroll deductions).	$__________	$__________
3. **Alimony and maintenance payments.** Do not include payments from a spouse if Column B is filled in.	$__________	$__________
4. **All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.** Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	$__________	$__________

5. **Net income from operating a business, profession, or farm**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	− $______	− $______			
Net monthly income from a business, profession, or farm	$______	$______	Copy here ➔	$__________	$__________

6. **Net income from rental and other real property**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	− $______	− $______			
Net monthly income from rental or other real property	$______	$______	Copy here ➔	$__________	$__________

	Column A **Debtor 1**	*Column B* **Debtor 2**
7. **Interest, dividends, and royalties**	$____________	$__________
8. **Unemployment compensation**	$____________	$__________
Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here:		
For you .... $_________		
For your spouse .... $_________		
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act. Also, except as stated in the next sentence, do not include any compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If you received any retired pay paid under chapter 61 of title 10, then include that pay only to the extent that it does not exceed the amount of retired pay to which you would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.	$____________	$__________
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act; payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism; or compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If necessary, list other sources on a separate page and put the total below.		
______________________________________	$____________	$__________
______________________________________	$____________	$__________
Total amounts from separate pages, if any.	+ $____________	+ $__________
11. **Calculate your total current monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	$____________ +	$__________ = $_______ **Total current monthly income**

Part 2: Sign Below

By signing here, under penalty of perjury I declare that the information on this statement and in any attachments is true and correct.

✘ ______________________________ Signature of Debtor 1

✘ ______________________________ Signature of Debtor 2

Date _______________ MM / DD / YYYY

Date _______________ MM / DD / YYYY

TAB 7A2

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Committee Note

Official Form 122B is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. As amended, the initial instruction in the form includes an exception for subchapter V cases. Because Code § 1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: FURTHER CONSIDERATION OF CONFORMING AMENDMENTS TO OFFICIAL FORM 417A (NOTICE OF APPEAL AND STATEMENT OF ELECTION)

DATE: MARCH 3, 2020

This Subcommittee has been asked to recommend to the Advisory Committee whether to propose amendments to Official Form 417A that conform to amendments to Appellate Form 1 (Notice of Appeal) that have been proposed by the Advisory Committee on Appellate Rules and published for public comment. At the fall 2019 meeting of the Advisory Committee on Bankruptcy Rules, this Subcommittee and the Subcommittee on Privacy, Public Access, and Appeals ("Appeals Subcommittee") jointly reported that they had some doubts about whether conforming amendments to Form 417A and Rule 8003 were necessary and that they wanted to consider any comments received on the amendments to FRAP 3(c) and Appellate Form 1 before making a recommendation regarding the bankruptcy rule and form.

The amendments to FRAP 3(c) and Appellate Form 1, as well as the reasons the Appellate Rules Committee proposed them, are discussed in the report of the Appeals Subcommittee on Rule 8003, which is located elsewhere in the agenda book. That report also discusses the comments that were submitted in response to the publication of the proposed FRAP 3(c) amendments.

As is explained in the Appeals Subcommittee's report, that Subcommittee voted to await further actions on the FRAP amendments before making a recommendation about possible conforming amendments to Rule 8003. This Subcommittee decided that it should follow the

lead of the Appeals Subcommittee and hold off on making a recommendation about amendments to Official Form 417A. That approach will allow both subcommittees to know exactly what the Appellate and Standing Committees approve regarding FRAP 3(c) and Appellate Form 1 and to carefully consider the amendments' fitness for bankruptcy appeals. Joint conference calls of the two subcommittees before the fall meeting will be arranged for this purpose.

TAB 7C

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: DISCHARGE ORDERS FOR SUBCHAPTER V CASES

DATE: MARCH 2, 2020

The Bankruptcy Clerks' Advisory Group has suggested that it would be helpful to have one or more form orders of discharge for subchapter V cases. Currently the only chapter 11 discharge form is for individual debtors (Director's Form 3180RI). While it can be adapted for subchapter V cases, it is not appropriate in its entirety for those cases because the scope of discharge differs.

As with the other discharge-order forms, forms that are adopted for subchapter V cases should be Director's Forms in order to allow individual courts flexibility in using them. Issuing Director's Forms will also expedite implementation since they will only have to be reviewed by the Advisory Committee, rather than going through the approval process for Official Forms issued by the Judicial Conference.

The Subcommittee recommends the approval of three forms. They follow this memorandum in the agenda book. One is for an individual case in which confirmation is consensual under § 1191(a). In those cases, discharge is governed by § 1141(d)(1)-(4). If, however, the plan is confirmed nonconsensually under § 1191(b), § 1192 governs the discharge. Two different forms are proposed for that situation, one for individuals and another for corporations and partnerships.

Adaptation of Form 3180RI for subchapter V cases is simple insofar as the order itself is concerned. It only requires changing statutory references and changing the caption for cases of

non-individual debtors. However, adapting the explanations of discharge to accurately reflect the two types of subchapter V discharge is also required.

The Subcommittee decided that a form order should be created for individual cases in which confirmation is consensual under § 1191(a), even though there is no statutory mandate for the court to enter a discharge order. (Section 1141(d)(1) says that "confirmation of a plan . . . discharges the debtor.") Members of the Subcommittee concluded that individual debtors might want to have a document that demonstrates that they have received a discharge.

With respect to cases in which the plan is confirmed under § 1191(b), § 1192 requires that "the court shall grant the debtor a discharge" after the requisite payments have been made. The Subcommittee recommends that two forms be approved for this situation. There are differences in the scope of the discharge for individuals and for corporations and partnerships, and so different explanations are required.

TAB 7C1

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Information to identify the case:

Debtor 1 ______________________________ Last 4 digits of Social Security number or ITIN _ _ _ _
First Name Middle Name Last Name
EIN _ _ - _ _ _ _ _ _ _ _ _

Debtor 2 ______________________________ Last 4 digits of Social Security number or ITIN _ _ _ _
(Spouse, if filing) First Name Middle Name Last Name
EIN _ _ - _ _ _ _ _ _ _ _ _

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

Case number: ________________________

Order of Discharge

02/20

IT IS ORDERED: A discharge under 11 U.S.C. § 1141(d) is granted to:

___________________________ [________________________________]

[include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

____
MM / DD / YYYY

By the court: ________________________________
United States Bankruptcy Judge

Explanation of Bankruptcy Discharge under § 1141(d) in an Individual's Case under Subchapter V of Chapter 11

This order does not close or dismiss the case.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtor personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtor personally on discharged debts. Creditors cannot contact the debtor by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtor's damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

This order does not prevent debtors from paying any debt voluntarily. 11 U.S.C. § 524(f).

Most debts are discharged

Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtor's personal liability for debts that arose before confirmation of the plan.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

Some debts are not discharged

Examples of debts that are not discharged are:

- debts that are domestic support obligations;
- debts for most student loans;
- debts for most taxes;
- debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;

For more information, see page 2 ►

- debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- some debts which the debtors did not properly list;
- debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and
- debts for death or personal injury caused by operating a vehicle while intoxicated.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of subchapter V discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

TAB 7C2

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Information to identify the case:

Debtor 1 ____ Last 4 digits of Social Security number or ITIN _ _ _ _
First Name Middle Name Last Name
EIN _ _ - _ _ _ _ _ _ _ _ _

Debtor 2 ____ Last 4 digits of Social Security number or ITIN _ _ _ _
(Spouse, if filing) First Name Middle Name Last Name
EIN _ _ - _ _ _ _ _ _ _ _ _

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

Case number: ________________________

Order of Discharge

02/20

IT IS ORDERED: A discharge under 11 U.S.C. § 1192 is granted to:

_________________________ [_______________________________]

[include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

_____________ **By the court:** ______________________________

MM / DD / YYYY United States Bankruptcy Judge

Explanation of Bankruptcy Discharge in an Individual's Case under § 1192 of Chapter 11, Subchapter V

This order does not close or dismiss the case.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtor personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtor personally on discharged debts. Creditors cannot contact the debtor by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtor's damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

This order does not prevent debtors from paying any debt voluntarily. 11 U.S.C. § 524(f).

Most debts are discharged

Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtor's personal liability for debts that arose before confirmation of the plan and for administrative expenses provided for in the plan.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

Some debts are not discharged

Examples of debts that are not discharged are:

- debts that are domestic support obligations;
- debts for most student loans;
- debts for most taxes;
- debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;

For more information, see page 2 ►

- debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- some debts which the debtors did not properly list;
- debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans;
- debts for death or personal injury caused by operating a vehicle while intoxicated; and
- debts described by 11 U.S.C. § 1192(1): those on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of subchapter V discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

TAB 7C3

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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 : ________________________

Order of Discharge

02/20

IT IS ORDERED: A discharge under 11 U.S.C. § 1192 is granted to:

__________________________ [________________________________]

[include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

____
MM / DD / YYYY

By the court: ______________________________
United States Bankruptcy Judge

Explanation of Bankruptcy Discharge in a Corporation or Partnership Case under § 1192 of Chapter 11, Subchapter V

This order does not close or dismiss the case.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtor as a personal liability. For example, creditors cannot sue, assert a deficiency, or otherwise try to collect from the debtor on discharged debts. Creditors cannot contact the debtor by mail, phone, or otherwise in any attempt to collect the debt. Creditors who violate this order can be required to pay debtor's damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a mortgage or repossess an automobile.

This order does not prevent debtors from paying any debt voluntarily. 11 U.S.C. § 524(f).

Most debts are discharged

Most debts are covered by the discharge, but not all.

Generally, a discharge removes the debtor's personal liability for debts that arose before confirmation of the plan and for administrative expenses provided for in the plan.

Some debts are not discharged

Debts not discharged are the following:

- debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case; and
- debts described by 11 U.S.C. § 1192(1): those on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of subchapter V discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: RESTYLING SUBCOMMITTEE

SUBJECT: RESTYLING TO PARTS I AND II OF THE BANKRUPTCY RULES

DATE: Mar. 6, 2020

The Subcommittee is very pleased to present to the Advisory Committee for approval and publication Parts I and II of the restyled Federal Rules of Bankruptcy Procedure, which are attached as exhibits to this memo. As you recall, when the restyling project began, we hoped to have the first group of rules ready for public comment in August 2020, and we have met that anticipated schedule.

Process and Principles

The restyled rules are the product of intensive and collaborative work between the style consultants, who produced the initial drafts, and the Reporters and Restyling Subcommittee, who provided comments to the style consultants on those drafts. Each set of rules was the subject of several reviews, by all parties, including many telephonic and Skype meetings by the Subcommittee to look at drafts while revisions were made and drafting issues discussed.

Throughout this process, the Subcommittee has been guided by the following basic principles:

1. **Make No Substantive Changes**. Most of the comments the Reporters and Subcommittee made on the drafts were aimed at preventing an inadvertent substantive change in meaning by the use of a different word or phrase than in the existing rule. When any member of the Subcommittee had a concern that the restyled language might create ambiguity or work a modification to the meaning of the rule, we insisted on retaining the language of the current rule. If we find something in the rules that we think should be changed in the future as a substantive matter, we put it on a list to consider outside the restyling context. We also would point out that the rules are being restyled from the version that was in effect at the time the project began. All subsequent changes to the rules made after that time will be incorporated before the restyled rules are finalized.

2. **Respect Defined Terms**. We decided early in the process that, in light of the direction of Rule 9001 (which directs that definitions of words and phrases in Sections 101, 902, 1101, and 1502 govern their use in the rules), and our own sense that the rules should follow the Code with respect to defined terms, any word or phrase that is defined in the Code should be used in the restyled rules exactly as defined in the Code without restyling. This has caused some conflict with the style consultants, who continue to believe that restyling such defined terms is a matter

of pure style rather than substance and would cause no confusion. Examples of phrases the style consultants wished to modify include the following:

Defined Term	Style Consultant Version
Equity security holder	Equity-security holder
Small business case	Small-business case
Small business debtor	Small-business debtor
Health care business	Healthcare business
Bankruptcy petition preparer	Bankruptcy-petition preparer
Petition for recognition[1] of a foreign proceeding	Petition to recognize a foreign proceeding

On the other hand, when terms are used in the Code but are not defined, we have agreed that they may be restyled in the rules, such as "personal financial-management course," "credit-counseling statement," and "patient-care ombudsman."

3. **Preserve Terms of Art**. When a phrase is used commonly in bankruptcy practice, we asked that it not be restyled. The phrase that was often used in Part I of the rules was "meeting of creditors" (which the style consultants wished to modify to "creditors' meeting").

4. **Remain Open to New Ideas**. The style consultants suggested some different approaches in the rules, which the Subcommittee has embraced, including making references to specific forms by form number, and listing recipients of notices by bullet points.

5. **Defer on Matter of Pure Style**. Although the Subcommittee makes many suggestions of ways to improve the drafting of the restyled rules, on matters of pure style the Subcommittee has committed to deferring to the style consultants when they have different views.

The restyled versions of Parts I and II of the Bankruptcy Rules implement these principles, but if the Advisory Committee wishes to direct that the Subcommittee approach the process differently in any respect, further changes may be made.

Question Regarding Statutory Rules

There is one issue that the Subcommittee wishes to raise with the Advisory Committee. When Congress passed the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. 98-353, 98 Stat. 357, it included the following provision:

> "SEC. 321. Rule 2002 of the Bankruptcy Rules is amended by adding at the end thereof the following new subdivision:
>
> (n) In a voluntary case commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person

[1] "Recognition" is defined in Section 1502(7).

> as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order."

Thus, Rule 2002(n) was enacted directly by Congress rather than through the bankruptcy version of the Rules Enabling Act, 28 U.S.C. § 2075.[2] The question is whether Rule 2002(n) can be modified (including for restyling purposes) under § 2075, or whether it can be amended only by Congress through separate enactment.

The Reporters both believe that a statutory rule can be modified only by subsequent Congressional action outside the Rules Enabling Act process, but note that Rule 2002(n) has purported to be amended under § 2075 at least twice since its enactment. The 1991 Committee Note describes subdivision (k), apparently new at that time, as being derived from a Bankruptcy Act Rule. The addition of the new subdivision apparently resulted in the reordering of all subsequent subdivisions, thereby changing the designation of former subdivision (n) to (o). A second change occurred in 2009 when all 20-day periods in the rules were changed to 21 days. In neither case did Congress object to the amendments, and accordingly those changes become effective.

Rules Counsel Scott Myers argues that, although the change from 20 to 21 days was not authorized, § 2075 allows the Advisory Committee to propose nonsubstantive nonprocedural changes to the statutory rule through the restyling process. Accordingly, Mr. Myers supports retaining the current designation of the rule as subdivision (o). He also supports changing the word "shall" to "must," following a stylistic convention that the Subcommittee recommends be applied throughout the bankruptcy rules, and making other nonsubstantive changes suggested by the style consultants.

In evaluating this issue, the scope of bankruptcy rule-making authority permissible under 28 U.S.C. § 2075 should be contrasted to the scope of rule-making authority to appellate, civil, criminal and evidence rules permissible under 28 U.S.C. § 2072. Both statutes prohibit a change to a procedural rule that would "abridge, enlarge, or modify any substantive right." Section 2072, however, also includes a 'supersession clause' in the following additional language: "All laws in conflict with such rules shall be of no force or effect after such rules have taken effect." This additional language seems to allow for procedural changes to statutory rules so long as they do not affect a substantive right. The absence of such language in § 2075 raises the question of whether even minor stylistic changes, such as the designation of a rule number, can be made when Congress directs specific bankruptcy rule changes by statute.

The Subcommittee asks for the guidance of the Advisory Committee on whether to propose modifications to the language of Rule 2002(n) (which we are proposing be returned to that designation in this process) in the interest of restyling, or whether it should remain as Congress enacted it in 1984.

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[2] Although the Act became law in 1984, Rule 2002(n) apparently also went through the normal rule-making process and did not become effective until 1987.

Style Consultants

In submitting these restyled rules to the Advisory Committee, we must once again express our deep appreciation and admiration for the work done by the style consultants on this project. Although their work speaks for itself – and we think the Advisory Committee will agree that the restyled rules are a big improvement – we must thank the style consultants for all that they have done and will continue to do as we make the Federal Rules of Bankruptcy more user-friendly for all those in the bankruptcy process.

Recommendation

The Subcommittee recommends that the Advisory Committee look at the restyled rules carefully, suggest any additional changes it would like to make, and then approve the restyled versions of Parts I and II of the Federal Rules of Bankruptcy Procedure and recommend their publication for comment. (None of the restyled rules will submitted to the Judicial Conference until all of the rules have been restyled and published for comment and given final approval by the Advisory Committee and the Standing Committee.)

Committee Note

The Bankruptcy Rules are the fifth set of national procedural rules to be restyled. The restyled Rules of Appellate Procedure took effect in 1998. The restyled Rules of Criminal Procedure took effect in 2002. The restyled Rules of Civil Procedure took effect in 2007. The restyled Rules of Evidence took effect in 2011. The restyled Bankruptcy Rules apply the same general drafting guidelines and principles used in restyling the Appellate, Criminal, Civil and Evidence Rules.

General Guidelines. Guidance in drafting, usage, and style was provided by Bryan Garner, Guidelines for Drafting and Editing Court Rules, Administrative Office of the United States Courts (1969) and Bryan Garner, Dictionary of Modern Legal Usage (2d ed. 1995). See also Joseph Kimble, Guiding Principles for Restyling the Civil Rules, in Preliminary Draft of Proposed Style Revision of the Federal Rules of Civil Procedure, at page x (Feb. 2005) (available at https://www.michbar.org/file/barjournal/article/documents/pdf4article909.pdf and https://www.michbar.org/file/barjournal/article/documents/pdf4article921.pdf); Joseph Kimble, Lessons in Drafting from the New Federal Rules of Civil Procedure, 12 Scribes J. Legal Writing 25 (2008-2009).

Formatting Changes. Many of the changes in the restyled Bankruptcy Rules result from using format to achieve clearer presentations. The rules are broken down into constituent parts, using progressively indented subparagraphs with headings and substituting vertical for horizontal lists. “Hanging indents” are used throughout. These formatting changes make the structure of the rules graphic and make the restyled rules easier to read and understand even when the words are not changed.

Changes to Reduce Inconsistent, Ambiguous, Redundant, Repetitive, or Archaic Words. The restyled rules reduce the use of inconsistent terms that say the same thing in different ways. Because different words are presumed to have different meanings, such inconsistencies can result in confusion. The restyled rules reduce inconsistencies by using the same words to express the same meaning. The restyled rules also minimize the use of inherently ambiguous words. The restyled rules minimize the use of redundant "intensifiers." These are expressions that attempt to add emphasis, but instead state the obvious and create negative implications for other rules. The absence of intensifiers in the restyled rules does not change their substantive meaning. The restyled rules also remove words and concepts that are outdated or redundant.

Rule Numbers. The restyled rules keep the same numbers to minimize the effect on research. Subdivisions have been rearranged within some rules to achieve greater clarity and simplicity.

No Substantive Change. The Committee made special efforts to reject any purported style improvement that might result in a substantive change in the application of a rule. The Committee also declined to modify "sacred phrases" — those that have become so familiar in practice that to alter them would be unduly disruptive to practice and expectations. An example in the Bankruptcy Rules would be "meeting of creditors."

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Bankruptcy Rules Restyling

1000 Series

Preface

This revision is a restyling of the Federal Rules of Bankruptcy Procedure to provide greater clarity, consistency, and conciseness without changing practice and procedure.

ORIGINAL	**REVISION**
Rule 1001. Scope of Rules and Forms; Short Title	**Rule 1001. Scope; Title; Citations; References to a Specific Form**
The Bankruptcy Rules and Forms govern procedure in cases under title 11 of the United States Code. The rules shall be cited as the Federal Rules of Bankruptcy Procedure and the forms as the Official Bankruptcy Forms. These rules shall be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding.	**(a) In General.** These rules, together with the bankruptcy forms, govern the procedure in cases under the Bankruptcy Code, Title 11 of the United States Code. They must be construed, administered, and employed by both the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding. **(b) Title.** These rules should be referred to as the Federal Rules of Bankruptcy Procedure and the forms as the Official Bankruptcy Forms. **(c) Citations.** In these rules, the Bankruptcy Code is cited with a section sign and number (§ 101). A rule is cited with "Rule" followed by the rule number (Rule 1001(a)). **(d) References to a Specific Form.** A reference to a "Form" followed by a number is a reference to an Official Bankruptcy Form.
PART I—COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF	**PART I. COMMENCING A BANKRUPTCY CASE; THE PETITION AND ORDER FOR RELIEF**

ORIGINAL	REVISION
Rule 1002. Commencement of Case	**Rule 1002. Commencing a Bankruptcy Case**
(a) PETITION. A petition commencing a case under the Code shall be filed with the clerk.	**(a) In General.** A bankruptcy case is commenced by filing a petition with the clerk.
(b) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of the petition filed pursuant to subdivision (a) of this rule.	**(b) Copy to the United States Trustee.** The clerk must promptly send a copy of the petition to the United States trustee.

ORIGINAL	REVISION
Rule 1003. Involuntary Petition	**Rule 1003. Involuntary Petition: Transferred Claims; Joining Other Creditors; Additional Time to Join**
(a) TRANSFEROR OR TRANSFEREE OF CLAIM. A transferor or transferee of a claim shall annex to the original and each copy of the petition a copy of all documents evidencing the transfer, whether transferred unconditionally, for security, or otherwise, and a signed statement that the claim was not transferred for the purpose of commencing the case and setting forth the consideration for and terms of the transfer. An entity that has transferred or acquired a claim for the purpose of commencing a case for liquidation under chapter 7 or for reorganization under chapter 11 shall not be a qualified petitioner.	**(a) Transferred Claims.** An entity that has transferred or acquired a claim for the purpose of commencing an involuntary case under Chapter 7 or Chapter 11 is not a qualified petitioner. A petitioner that has transferred or acquired a claim must attach to the petition and to any copy: (1) all documents evidencing the transfer, whether it was unconditional, for security, or otherwise; and (2) a signed statement that: (A) affirms that the claim was not transferred for the purpose of commencing the case; and (B) sets forth the consideration for the transfer and its terms.
(b) JOINDER OF PETITIONERS AFTER FILING. If the answer to an involuntary petition filed by fewer than three creditors avers the existence of 12 or more creditors, the debtor shall file with the answer a list of all creditors with their addresses, a brief statement of the nature of their claims, and the amounts thereof. If it appears that there are 12 or more creditors as provided in § 303(b) of the Code, the court shall afford a reasonable opportunity for other creditors to join in the petition before a hearing is held thereon.	**(b) Joining Other Creditors After Filing.** If an involuntary petition is filed by fewer than 3 creditors and the debtor's answer alleges the existence of 12 or more creditors as provided in § 303(b), the debtor must attach to the answer: (1) the names and addresses of all creditors; and (2) a brief statement of the nature and amount of each creditor's claim. **(c) Additional Time to Join.** If there appear to be 12 or more creditors, the court must allow a reasonable time for other creditors to join the petition before holding a hearing on it.

ORIGINAL	REVISION
Rule 1004. Involuntary Petition Against a Partnership	**Rule 1004. Involuntary Petition Against a Partnership**
After filing of an involuntary petition under § 303(b)(3) of the Code, (1) the petitioning partners or other petitioners shall promptly send to or serve on each general partner who is not a petitioner a copy of the petition; and (2) the clerk shall promptly issue a summons for service on each general partner who is not a petitioner. Rule 1010 applies to the form and service of the summons.	A petitioner who files an involuntary petition against a partnership under § 303(b)(3) must promptly send the petition to—or serve a copy on—each general partner who is not a petitioner. The clerk must promptly issue a summons for service on any general partner who is not a petitioner. Rule 1010 governs the form and service of the summons.

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Rule 1004.1. Petition for an Infant or Incompetent Person	**Rule 1004.1. Voluntary Petition on Behalf of an Infant or Incompetent Person**
If an infant or incompetent person has a representative, including a general guardian, committee, conservator, or similar fiduciary, the representative may file a voluntary petition on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may file a voluntary petition by next friend or guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person who is a debtor and is not otherwise represented or shall make any other order to protect the infant or incompetent debtor.	**(a) Represented Infant or Incompetent Person.** If an infant or an incompetent person has a representative—such as a general guardian, committee, conservator, or similar fiduciary—the representative may file a voluntary petition on behalf of the infant or incompetent person. **(b) Unrepresented Infant or Incompetent Person.** If an infant or an incompetent person does not have a representative: (1) a next friend or guardian ad litem may file the petition; and (2) the court must appoint a guardian ad litem or issue any other order needed to protect the interests of the infant debtor or incompetent debtor.

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Rule 1004.2. Petition in Chapter 15 Cases	**Rule 1004.2. Petition in a Chapter 15 Case**
(a) DESIGNATING CENTER OF MAIN INTERESTS. A petition for recognition of a foreign proceeding under chapter 15 of the Code shall state the country where the debtor has its center of main interests. The petition shall also identify each country in which a foreign proceeding by, regarding, or against the debtor is pending.	**(a) Designating the Center of Main Interests.** A petition under Chapter 15 to recognize a foreign proceeding must: (1) designate the country where the debtor has its center of main interests; and (2) identify each country in which a foreign proceeding is pending against, by, or regarding the debtor.
(b) CHALLENGING DESIGNATION. The United States trustee or a party in interest may file a motion for a determination that the debtor's center of main interests is other than as stated in the petition for recognition commencing the chapter 15 case. Unless the court orders otherwise, the motion shall be filed no later than seven days before the date set for the hearing on the petition. The motion shall be transmitted to the United States trustee and served on the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor was a party as of the time the petition was filed, and such other entities as the court may direct.	**(b) Challenging the Designation.** The United States trustee or a party in interest may, by motion, challenge the designation. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. Unless the court orders otherwise, the motion must be filed at least 7 days before the date set for the hearing on the petition. The motion must be served on: • the debtor; • all persons or bodies authorized to administer the debtor's foreign proceedings; • all entities against whom provisional relief is sought under § 1519; • all parties to pending United States litigation in which the debtor is a party when the petition is filed; and • any other entity as the court orders.

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Rule 1005. Caption of Petition	**Rule 1005. Caption of a Petition; Title of the Case**
The caption of a petition commencing a case under the Code shall contain the name of the court, the title of the case, and the docket number. The title of the case shall include the following information about the debtor: name, employer identification number, last four digits of the social-security number or individual debtor's taxpayer-identification number, any other federal taxpayer-identification number, and all other names used within eight years before filing the petition. If the petition is not filed by the debtor, it shall include all names used by the debtor which are known to the petitioners.	**(a) Caption and Title; Required Information.** A petition's caption must contain the name of the court, the title of the case, and the docket number. The title must include the following information about the debtor: (1) name; (2) employer-identification number; (3) the last 4 digits of the social-security number or individual taxpayer-identification number; (4) any other federal taxpayer-identification number; and (5) all other names the debtor has used within 8 years before the petition was filed. **(b) Petition Not Filed by Debtor.** A petition not filed by the debtor must include all names that the petitioner knows have been used by the debtor.

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Rule 1006. Filing Fee	**Rule 1006. Filing Fee**
(a) GENERAL REQUIREMENT. Every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c) of this rule. For the purpose of this rule, “filing fee” means the filing fee prescribed by 28 U.S.C. § 1930(a)(1)–(a)(5) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code.	**(a) In General.** Unless (b) or (c) applies, every petition must be accompanied by: (1) the filing fee required by 28 U.S.C. § 1930(a)(1)–(5); and (2) any other fee that the Judicial Conference of the United States requires under 28 U.S.C. § 1930(b) to be paid upon filing.
(b) PAYMENT OF FILING FEE IN INSTALLMENTS. (1) Application to Pay Filing Fee in Installments. A voluntary petition by an individual shall be accepted for filing, regardless of whether any portion of the filing fee is paid, if accompanied by the debtor’s signed application, prepared as prescribed by the appropriate Official Form, stating that the debtor is unable to pay the filing fee except in installments. (2) Action on Application. Prior to the meeting of creditors, the court may order the filing fee paid to the clerk or grant leave to pay in installments and fix the number, amount and dates of payment. The number of installments shall not exceed four, and the final installment shall be payable not later than 120 days after filing the petition. For cause shown, the court may extend the time of any installment, provided the last installment is paid not later than 180 days after filing the petition. (3) Postponement of Attorney’s Fees. All installments of the filing fee must be paid in full before the debtor or chapter 13 trustee may make further payments to an attorney or any other	**(b) Paying by Installment.** **(1)** ***Application to Pay by Installment.*** The clerk must accept for filing an individual’s voluntary petition, regardless of whether any part of the filing fee is paid, if it is accompanied by a completed and signed application to pay in installments (Form 103A). **(2)** ***Court Decision on Installments.*** Before the meeting of creditors, the court may order payment of the entire filing fee or may order the debtor to pay it in installments, designating the number, amount, and payment dates. The number of payments must not exceed 4, and all payments must be made within 120 days after the petition is filed. The court may, for cause, extend the time to pay an installment, but the last one must be paid within 180 days after the petition is filed. **(3)** ***Postponing Other Payments.*** Until the filing fee has been paid in full, the debtor or Chapter 13 trustee must not make any further payment to an attorney or any other person who provides services to the debtor in connection with the case.

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person who renders services to the debtor in connection with the case.	
(c) WAIVER OF FILING FEE. A voluntary chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor's application requesting a waiver under 28 U.S.C. § 1930(f), prepared as prescribed by the appropriate Official Form.	**(c) Waiving the Filing Fee.** The clerk must accept for filing an individual's voluntary Chapter 7 petition if it is accompanied by a completed and signed application to waive the filing fee (Form 103B).[1]

ORIGINAL	**REVISION**
Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits	**Rule 1007. Lists, Schedules, Statements, and Other Documents; Time to File**
(a) CORPORATE OWNERSHIP STATEMENT, LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND OTHER LISTS. (1) Voluntary Case. In a voluntary case, the debtor shall file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H as prescribed by the Official Forms. If the debtor is a corporation, other than a governmental unit, the debtor shall file with the petition a corporate ownership statement containing the information described in Rule 7007.1. The debtor shall file a supplemental statement promptly upon any change in circumstances that renders the corporate ownership statement inaccurate. (2) Involuntary Case. In an involuntary case, the debtor shall file, within seven days after entry of the order for relief, a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H as prescribed by the Official Forms. (3) Equity Security Holders. In a chapter 11 reorganization case, unless the court orders otherwise, the debtor shall file within 14 days after entry of the order for relief a list of the debtor's equity security holders of each class showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder. (4) Chapter 15 Case. In addition to the documents required under § 1515	**(a) Lists of Names and Addresses.** **(1)** ***Voluntary Case.*** In a voluntary case, the debtor must file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official Bankruptcy Forms. Unless it is a governmental unit, a corporate debtor must: (A) include a corporate-ownership statement containing the information described in Rule 7007.1; and (B) promptly file a supplemental statement if changed circumstances make the original statement inaccurate. **(2)** ***Involuntary Case.*** Within 7 days after the order for relief has been entered in an involuntary case, the debtor must file a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official Bankruptcy Forms. **(3)** ***Chapter 11—List of Equity Security Holders.*** Unless the court orders otherwise, a Chapter 11 debtor must, within 14 days after the order for relief is entered, file a list of the debtor's equity security holders by class. The list must show the number and type of interests registered in each holder's name, along with the holder's last known address or place of business. **(4)** ***Chapter 15—Information Required from a Foreign Representative.*** If a foreign representative files a petition under Chapter 15 to recognize a foreign proceeding, the representative

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of the Code, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition: (A) a corporate ownership statement containing the information described in Rule 7007.1; and (B) unless the court orders otherwise, a list containing the names and addresses of all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code. (5) Extension of Time. Any extension of time for the filing of the lists required by this subdivision may be granted only on motion for cause shown and on notice to the United States trustee and to any trustee, committee elected under § 705 or appointed under § 1102 of the Code, or other party as the court may direct.	must—in addition to the documents required by § 1515—include with the petition: (A) a corporate-ownership statement containing the information described in Rule 7007.1; and (B) unless the court orders otherwise, a list containing the names and addresses of: (i) all persons or bodies authorized to administer the debtor's foreign proceedings; (ii) all parties to pending United States litigation in which the debtor was a party when the petition was filed; and (iii) all entities against whom provisional relief is sought under § 1519. **(5)** ***Extending the Time to File.*** On motion and for cause, the court may extend the time to file any list required by this Rule 1007(a). Notice of the motion must be given to: • the United States trustee; • any trustee; • any committee elected under § 705 or appointed under § 1102; and • any other party as the court orders.
(b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS REQUIRED. (1) Except in a chapter 9 municipality case, the debtor, unless the court orders otherwise, shall file the following schedules, statements, and other documents, prepared as prescribed	**(b) Schedules, Statements, and Other Documents.** **(1)** ***In General.*** Except in a Chapter 9 case or when the court orders otherwise, the debtor must file—prepared as prescribed by the appropriate Official Form, if any— (A) a schedule of assets and liabilities;

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by the appropriate Official Forms, if any: (A) schedules of assets and liabilities; (B) a schedule of current income and expenditures; (C) a schedule of executory contracts and unexpired leases; (D) a statement of financial affairs; (E) copies of all payment advices or other evidence of payment, if any, received by the debtor from an employer within 60 days before the filing of the petition, with redaction of all but the last four digits of the debtor's social security number or individual taxpayer-identification number; and (F) a record of any interest that the debtor has in an account or program of the type specified in § 521(c) of the Code. (2) An individual debtor in a chapter 7 case shall file a statement of intention as required by § 521(a) of the Code, prepared as prescribed by the appropriate Official Form. A copy of the statement of intention shall be served on the trustee and the creditors named in the statement on or before the filing of the statement. (3) Unless the United States trustee has determined that the credit counseling requirement of § 109(h) does not apply in the district, an individual debtor must file a statement of compliance with the credit counseling requirement, prepared as prescribed by the appropriate Official Form which must include one of the following:	(B) a schedule of current income and expenditures; (C) a schedule of executory contracts and unexpired leases; (D) a statement of financial affairs; (E) copies of all payment advices or other evidence of payment that the debtor received from any employer within 60 days before the petition was filed—with all but the last 4 digits of the debtor's social-security number or individual taxpayer-identification number deleted; and (F) a record of the debtor's interest, if any, in an account or program of the type specified in § 521(c). **(2)** ***Statement of Intention.*** In a Chapter 7 case, an individual debtor must: (A) file the statement of intention required by § 521(a) (Form 108); and (B) before or upon filing, serve a copy on the trustee and the creditors named in the statement. **(3)** ***Credit-Counseling Statement.*** Unless the United States trustee has determined that the requirement to file a credit-counseling statement under § 109(h) does not apply in the district, an individual debtor must file a statement of compliance (included in Form 101). The debtor must include one of the following: (A) a certificate and any debt-repayment plan required by § 521(b); (B) a statement that the debtor has received the credit-counseling

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(A) an attached certificate and debt repayment plan, if any, required by § 521(b);	briefing required by § 109(h)(1), but does not have a § 521(b) certificate;
(B) a statement that the debtor has received the credit counseling briefing required by § 109(h)(1) but does not have the certificate required by § 521(b);	(C) a certification under § 109(h)(3); or
(C) a certification under § 109(h)(3); or	(D) a request for a court determination under § 109(h)(4).
(D) a request for a determination by the court under § 109(h)(4).	
(4) Unless § 707(b)(2)(D) applies, an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.	**(4)** ***Current Monthly Income—Chapter 7.*** Unless § 707(b)(2)(D) applies, an individual debtor in a Chapter 7 case must: (A) file a statement of current monthly income (Form 122A-1); and (B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 7 means-test calculation (Form 122A-2).
(5) An individual debtor in a chapter 11 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form.	**(5)** ***Current Monthly Income—Chapter 11.*** An individual debtor in a Chapter 11 case must file a statement of current monthly income (Form 122B).
(6) A debtor in a chapter 13 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, a calculation of disposable income made in accordance with § 1325(b)(3), prepared as prescribed by the appropriate Official Form.	**(6)** ***Current Monthly Income—Chapter 13.*** A debtor in a Chapter 13 case must: (A) file a statement of current monthly income (Form 122C-1); and (B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 13 calculation of disposable income (Form 122C-2).
	(7) ***Personal Financial-Management Course.*** Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which § 1141(d)(3)

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(7) Unless an approved provider of an instructional course concerning personal financial management has notified the court that a debtor has completed the course after filing the petition: (A) An individual debtor in a chapter 7 or chapter 13 case shall file a statement of completion of the course, prepared as prescribed by the appropriate Official Form; and (B) An individual debtor in a chapter 11 case shall file the statement if § 1141(d)(3) applies. (8) If an individual debtor in a chapter 11, 12, or 13 case has claimed an exemption under § 522(b)(3)(A) in property of the kind described in § 522(p)(1) with a value in excess of the amount set out in § 522(q)(1), the debtor shall file a statement as to whether there is any proceeding pending in which the debtor may be found guilty of a felony of a kind described in § 522(q)(1)(A) or found liable for a debt of the kind described in § 522(q)(1)(B).	applies—must file a statement that such a course has been completed (Form 423). **(8)** ***Limitation on Homestead Exemption.*** This Rule 1007(b)(8) applies if an individual debtor in a Chapter 11, 12, or 13 case claims an exemption under § 522(b)(3)(A) in property of the type described in § 522(p)(1) and the property value exceeds the amount specified in § 522(q)(1). The debtor must file a statement about any pending proceeding in which the debtor may be found: (A) guilty of the type of felony described in § 522(q)(1)(A); or (B) liable for the type of debt described in § 522(q)(1)(B).
(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days after the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who	**(c) Time to File.** **(1)** ***Voluntary Case—Various Documents.*** Unless (d), (e), (f), or (h) provides otherwise, the debtor in a voluntary case must file the documents required by (b)(1), (b)(4), (b)(5), and (b)(6) with the petition or within 14 days after it is filed. **(2)** ***Involuntary Case—Various Documents.*** In an involuntary case, the debtor must file the documents required by (b)(1) within 14 days after the order for relief is entered. **(3)** ***Credit-Counseling Documents.*** In a voluntary case, the documents required by (b)(3)(A), (C), or (D) must be filed

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has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.	with the petition. Unless the court orders otherwise, a debtor who has filed a statement under (b)(3)(B) must file the documents required by (b)(3)(A) within 14 days after the order for relief is entered. **(4)** ***Financial-Management Course.*** Unless the court extends the time to file, an individual debtor must file the statement required by (b)(7) as follows: (A) in a Chapter 7 case, within 60 days after the first date set for the meeting of creditors under § 341; and (B) in a Chapter 11 or Chapter 13 case, before the last payment is made under the plan or before a motion for a discharge is filed under § 1141(d)(5)(B) or § 1328(b). **(5)** ***Limitation on Homestead Exemption.*** The debtor must file the statement required by (b)(8) no earlier than the date of the last payment made under the plan, or the date a motion for a discharge is filed under § 1141(d)(5)(B), 1228(b), or 1328(b). **(6)** ***Documents in a Converted Case.*** Unless the court orders otherwise, a document filed before a case is converted to another chapter is considered filed in the converted case. **(7)** ***Extending the Time to File.*** Except as § 1116(3) provides otherwise, the court, on motion and for cause, may extend the time to file a document under this rule. The movant must give notice of the motion to: • the United States trustee; • any committee elected under § 705 or appointed under § 1102; and

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	• any trustee, examiner, and other party as the court directs. If the motion is granted, notice must be given to the United States trustee and to any committee, trustee, and other party as the court orders.
(d) LIST OF 20 LARGEST CREDITORS IN CHAPTER 9 MUNICIPALITY CASE OR CHAPTER 11 REORGANIZATION CASE. In addition to the list required by subdivision (a) of this rule, a debtor in a chapter 9 municipality case or a debtor in a voluntary chapter 11 reorganization case shall file with the petition a list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders, as prescribed by the appropriate Official Form. In an involuntary chapter 11 reorganization case, such list shall be filed by the debtor within 2 days after entry of the order for relief under § 303(h) of the Code.	**(d) List of the 20 Largest Unsecured Creditors in a Chapter 9 or Chapter 11 Case.** In addition to the lists required by (a), a debtor in a Chapter 9 case or in a voluntary Chapter 11 case must file with the petition a list containing the names, addresses, and claims of the creditors that hold the 20 largest unsecured claims, excluding insiders as prescribed by the appropriate Official Form (Form 104 or 204). In an involuntary Chapter 11 case, the debtor must file the list within 2 days after the order for relief is entered under § 303(h).
(e) LIST IN CHAPTER 9 MUNICIPALITY CASES. The list required by subdivision (a) of this rule shall be filed by the debtor in a chapter 9 municipality case within such time as the court shall fix. If a proposed plan requires a revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the debtor shall also file a list showing the name and address of each known holder of title, legal or equitable, to real property adversely affected. On motion for cause shown, the court may modify the requirements of this subdivision and subdivision (a) of this rule.	**(e) Chapter 9 Lists.** In a Chapter 9 case, the court must set the time for the debtor to file a list required by (a). If a proposed plan requires the assessments on real estate to be revised so that the proportion of special assessments or special taxes for some property will be different from the proportion in effect when the petition is filed, the debtor must also file a list that shows—for each adversely affected property—the name and address of each known holder of title, both legal and equitable. On motion and for cause, the court may modify the requirements of this Rule 1007(e) and those of (a).

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(f) STATEMENT OF SOCIAL SECURITY NUMBER. An individual debtor shall submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an involuntary case, the debtor shall submit the statement within 14 days after the entry of the order for relief.	**(f) Social-Security Number.** In a voluntary case, an individual debtor must submit with the petition a statement that gives the debtor's social-security number or states that the debtor does not have one (Form 121). In an involuntary case, the debtor must submit the statement within 14 days after the order for relief is entered.
(g) PARTNERSHIP AND PARTNERS. The general partners of a debtor partnership shall prepare and file the list required under subdivision (a), schedules of the assets and liabilities, schedule of current income and expenditures, schedule of executory contracts and unexpired leases, and statement of financial affairs of the partnership. The court may order any general partner to file a statement of personal assets and liabilities within such time as the court may fix.	**(g) Partnership Case.** The general partners of a debtor partnership must file for the partnership the list required by (a) and the documents required by (b)(1)(A)–(D). The court may order any general partner to file a statement of personal assets and liabilities and may set the deadline for doing so.
(h) INTERESTS ACQUIRED OR ARISING AFTER PETITION. If, as provided by § 541(a)(5) of the Code, the debtor acquires or becomes entitled to acquire any interest in property, the debtor shall within 14 days after the information comes to the debtor's knowledge or within such further time the court may allow, file a supplemental schedule in the chapter 7 liquidation case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual debt adjustment case. If any of the property required to be reported under this subdivision is claimed by the debtor as exempt, the debtor shall claim the exemptions in the supplemental schedule. The duty to file a supplemental schedule in accordance	**(h) Interests in Property Acquired or Arising After a Petition Is Filed.** After the petition is filed, in a Chapter 7, 11, 12, or 13 case, if the debtor acquires—or becomes entitled to acquire—an interest in property described in § 541(a)(5), the debtor must file a supplemental schedule and include any claimed exemption. Unless the court allows additional time, the debtor must file the schedule within 14 days after learning about the property interest. This duty continues even after the case is closed, except for property acquired after a plan is confirmed in a Chapter 11 case or a discharge is granted in a Chapter 12 or 13 case.

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with this subdivision continues notwithstanding the closing of the case, except that the schedule need not be filed in a chapter 11, chapter 12, or chapter 13 case with respect to property acquired after entry of the order confirming a chapter 11 plan or discharging the debtor in a chapter 12 or chapter 13 case.	
(i) DISCLOSURE OF LIST OF SECURITY HOLDERS. After notice and hearing and for cause shown, the court may direct an entity other than the debtor or trustee to disclose any list of security holders of the debtor in its possession or under its control, indicating the name, address and security held by any of them. The entity possessing this list may be required either to produce the list or a true copy thereof, or permit inspection or copying, or otherwise disclose the information contained on the list.	**(i) Security Holders Known to Others.** After notice and a hearing and for cause, the court may direct an entity other than the debtor or trustee to: (1) disclose any list of the debtor's security holders in its possession or under its control by: (A) producing the list or a copy of it; (B) allowing inspection or copying; or (C) making any other disclosure; and (2) indicate the name, address, and security held by each of them.
(j) IMPOUNDING OF LISTS. On motion of a party in interest and for cause shown the court may direct the impounding of the lists filed under this rule, and may refuse to permit inspection by any entity. The court may permit inspection or use of the lists, however, by any party in interest on terms prescribed by the court.	**(j) Impounding Lists.** On motion of a party in interest and for cause, the court may impound any list filed under this rule and may refuse inspection. But the court may permit a party in interest to inspect or use an impounded list on terms prescribed by the court.
(k) PREPARATION OF LIST, SCHEDULES, OR STATEMENTS ON DEFAULT OF DEBTOR. If a list, schedule, or statement, other than a statement of intention, is not prepared and filed as required by this rule, the court may order the trustee, a petitioning creditor, committee, or other party to prepare and file any of these	**(k) Debtor's Failure to File a Required Document.** If a debtor fails to properly prepare and file a list, schedule, or statement (other than a statement of intention) as required by this rule, the court may order:

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papers within a time fixed by the court. The court may approve reimbursement of the cost incurred in complying with such an order as an administrative expense.	(1) that the trustee, a petitioning creditor, a committee, or other party to do so within the time set by the court; and (2) that the cost incurred be reimbursed as an administrative expense.
(l) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of every list, schedule, and statement filed pursuant to subdivision (a)(1), (a)(2), (b), (d), or (h) of this rule.	**(l) Copies to the United States Trustee.** The clerk must promptly send to the United States trustee a copy of every list, schedule, or statement filed under (a)(1), (a)(2), (b), (d), or (h).
(m) INFANTS AND INCOMPETENT PERSONS. If the debtor knows that a person on the list of creditors or schedules is an infant or incompetent person, the debtor also shall include the name, address, and legal relationship of any person upon whom process would be served in an adversary proceeding against the infant or incompetent person in accordance with Rule 7004(b)(2).	**(m) Infant or Incompetent Person.** If a debtor knows that a person named in a list of creditors or in a schedule is an infant or is incompetent, the debtor must include the name, address, and legal relationship of any person on whom process would be served in an adversary proceeding against that person under Rule 7004(b)(2).

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Rule 1008. Verification of Petitions and Accompanying Papers	**Rule 1008. Requirement to Verify Petitions and Accompanying Documents**
All petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746.	A petition, list, schedule, statement, and any amendment must be verified or must contain an unsworn declaration under 28 U.S.C. § 1746.

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Rule 1009. Amendments of Voluntary Petitions, Lists, Schedules and Statements	**Rule 1009. Amending a Voluntary Petition, List, Schedule, or Statement**
(a) GENERAL RIGHT TO AMEND. A voluntary petition, list, schedule, or statement may be amended by the debtor as a matter of course at any time before the case is closed. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby. On motion of a party in interest, after notice and a hearing, the court may order any voluntary petition, list, schedule, or statement to be amended and the clerk shall give notice of the amendment to entities designated by the court.	**(a) In General.** **(1)** ***By a Debtor.*** A debtor may amend a voluntary petition, list, schedule, or statement at any time before the case is closed. The debtor must give notice of the amendment to the trustee and any affected entity. **(2)** ***By a Party in Interest.*** On motion of a party in interest and after notice and a hearing, the court may order a voluntary petition, list, schedule, or statement to be amended. The clerk must give notice of the amendment to entities that the court designates.
(b) STATEMENT OF INTENTION. The statement of intention may be amended by the debtor at any time before the expiration of the period provided in § 521(a) of the Code. The debtor shall give notice of the amendment to the trustee and to any entity affected there-by.	**(b) Amending a Statement of Intention.** A debtor may amend a statement of intention at any time before the time provided in § 521(a)(2) expires. The debtor must give notice of the amendment to the trustee and any affected entity.
(c) STATEMENT OF SOCIAL SECURITY NUMBER. If a debtor becomes aware that the statement of social security number submitted under Rule 1007(f) is incorrect, the debtor shall promptly submit an amended verified statement setting forth the correct social security number. The debtor shall give notice of the amendment to all of the entities required to be included on the list filed under Rule 1007(a)(1) or (a)(2).	**(c) Incorrect Social-Security Number.** If a debtor learns that a social-security number shown on the statement submitted under Rule 1007(f) is incorrect, the debtor must: (1) promptly submit an amended statement with the correct number (Form 121); and (2) give notice of the amendment to all entities required to be listed under Rule 1007(a)(1) or (a)(2).
(d) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall promptly transmit to the United States trustee a copy of every amendment filed	**(d) Copy to the United States Trustee.** The clerk must promptly send a copy of every amendment filed under this rule to the United States trustee.

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or submitted under subdivision (a), (b), or (c) of this rule.	

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Rule 1010. Service of Involuntary Petition and Summons	**Rule 1010. Serving an Involuntary Petition and Summons**
(a) SERVICE OF INVOLUNTARY PETITION AND SUMMONS. On the filing of an involuntary petition, the clerk shall forthwith issue a summons for service. When an involuntary petition is filed, service shall be made on the debtor. The summons shall be served with a copy of the petition in the manner provided for service of a summons and complaint by Rule 7004(a) or (b). If service cannot be so made, the court may order that the summons and petition be served by mailing copies to the party's last known address, and by at least one publication in a manner and form directed by the court. The summons and petition may be served on the party anywhere. Rule 7004(e) and Rule 4(l) F.R.Civ.P. apply when service is made or attempted under this rule.	**(a) In General.** After an involuntary petition has been filed, the clerk must promptly issue a summons for service on the debtor. The summons must be served with a copy of the petition in the manner that Rule 7004(a) and (b) provide for service of a summons and complaint. If service cannot be so made, the court may order service by mail to the debtor's last known address, and by at least one publication as the court orders. Service may be made anywhere. Rule 7004(e) and Fed. R. Civ. P. 4(*l*) govern service.
(b) CORPORATE OWNERSHIP STATEMENT. Each petitioner that is a corporation shall file with the involuntary petition a corporate ownership statement containing the information described in Rule 7007.1.	**(b) Corporate-Ownership Statement.** A corporation that files an involuntary petition must file and serve with the petition a corporate-ownership statement containing the information described in Rule 7007.1.

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Rule 1011. Responsive Pleading or Motion in Involuntary Cases	**Rule 1011. Responsive Pleading in an Involuntary Case; Effect of a Motion**
(a) WHO MAY CONTEST PETITION. The debtor named in an involuntary petition may contest the petition. In the case of a petition against a partnership under Rule 1004, a nonpetitioning general partner, or a person who is alleged to be a general partner but denies the allegation, may contest the petition.	**(a) Who May Contest a Petition.** A debtor may contest an involuntary petition filed against it. In a partnership case under Rule 1004, a nonpetitioning general partner—or a person who is alleged to be a general partner but denies the allegation—may contest the petition.
(b) DEFENSES AND OBJECTIONS; WHEN PRESENTED. Defenses and objections to the petition shall be presented in the manner prescribed by Rule 12 F.R.Civ.P. and shall be filed and served within 21 days after service of the summons, except that if service is made by publication on a party or partner not residing or found within the state in which the court sits, the court shall prescribe the time for filing and serving the response.	**(b) Defenses and Objections; Time to File.** A defense or objection to the petition must be presented as prescribed by Fed. R. Civ. P. 12. It must be filed and served within 21 days after the summons is served. But if service is made by publication on a party or partner who does not reside in—or cannot be found in—the state where the court sits, the court must set the time to file and serve the answer.
(c) EFFECT OF MOTION. Service of a motion under Rule 12(b) F.R.Civ.P. shall extend the time for filing and serving a responsive pleading as permitted by Rule 12(a) F.R.Civ.P.	**(c) Effect of a Motion.** Serving a motion under Fed. R. Civ. P. 12(b) extends the time to file and serve an answer as Fed. R. Civ. P. 12(a) permits.
(d) CLAIMS AGAINST PETITIONERS. A claim against a petitioning creditor may not be asserted in the answer except for the purpose of defeating the petition.	**(d) Debtor's Claim Against a Petitioning Creditor.** A debtor's answer must not assert a claim against a petitioning creditor except to defeat the petition.
(e) OTHER PLEADINGS. No other pleadings shall be permitted, except that the court may order a reply to an answer and prescribe the time for filing and service.	**(e) Limit on Pleadings.** No pleading other than an answer to the petition is allowed, but the court may order a reply to an answer and set the time for filing and service.
(f) CORPORATE OWNERSHIP STATEMENT. If the entity responding to the involuntary petition is a	**(f) Corporate-Ownership Statement.** A corporation that responds to the petition must file a corporate-ownership statement

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corporation, the entity shall file with its first appearance, pleading, motion, response, or other request addressed to the court a corporate ownership statement containing the information described in Rule 7007.1.	containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, response, or other first request to the court.

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Rule 1012. Responsive Pleading in Cross-Border Cases	**Rule 1012. Contesting a Petition in a Chapter 15 Case**
(a) WHO MAY CONTEST PETITION. The debtor or any party in interest may contest a petition for recognition of a foreign proceeding.	**(a) Who May Contest the Petition.** A debtor or a party in interest may contest a Chapter 15 petition to recognize a foreign proceeding.
(b) OBJECTIONS AND RESPONSES; WHEN PRESENTED. Objections and other responses to the petition shall be presented no later than seven days before the date set for the hearing on the petition, unless the court prescribes some other time or manner for responses.	**(b) Time to File a Response.** Unless the court sets a different time, a response to the petition must be filed at least 7 days before the date set for a hearing on the petition.
(c) CORPORATE OWNERSHIP STATEMENT. If the entity responding to the petition is a corporation, then the entity shall file a corporate ownership statement containing the information described in Rule 7007.1 with its first appearance, pleading, motion, response, or other request addressed to the court.	**(c) Corporate-Ownership Statement.** A corporation that responds to the petition must file a corporate-ownership statement containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, response, or other first request to the court.

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Rule 1013. Hearing and Disposition of a Petition in an Involuntary Case	**Rule 1013. Contested Petition in an Involuntary Case; Default**
(a) CONTESTED PETITION. The court shall determine the issues of a contested petition at the earliest practicable time and forthwith enter an order for relief, dismiss the petition, or enter any other appropriate order.	**(a) Hearing and Disposition.** When a petition in an involuntary case is contested, the court must: (1) rule on the issues presented at the earliest practicable time; and (2) promptly issue an order for relief, dismiss the petition, or issue any other appropriate order.
(b) DEFAULT. If no pleading or other defense to a petition is filed within the time provided by Rule 1011, the court, on the next day, or as soon thereafter as practicable, shall enter an order for the relief requested in the petition.	**(b) Default.** If the petition is not contested within the time allowed by Rule 1011, the court must issue the order for relief on the next day or as soon as practicable.
[(c) ORDER FOR RELIEF]	

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Rule 1014. Dismissal and Change of Venue	**Rule 1014. Transferring a Case to Another District; Dismissing a Case Improperly Filed**
(a) DISMISSAL AND TRANSFER OF CASES. (1) Cases Filed in Proper District. If a petition is filed in the proper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may transfer the case to any other district if the court determines that the transfer is in the interest of justice or for the convenience of the parties. (2) Cases Filed in Improper District. If a petition is filed in an improper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may dismiss the case or transfer it to any other district if the court determines that transfer is in the interest of justice or for the convenience of the parties.	**(a) Dismissal or Transfer.** **(1)** ***Petitions Filed in the Proper District.*** If a petition is filed in the proper district, the court may transfer the case to another district in the interest of justice or for the parties' convenience. The court may do so: (A) on its own or on timely motion of a party in interest; and (B) only after a hearing on notice to the petitioner, United States trustee, and other entities as the court orders. **(2)** ***Petitions Filed in an Improper District.*** If a petition is filed in an improper district, the court may dismiss the case or may transfer it to another district on the same grounds and under the same procedures as stated in (1).
(b) PROCEDURE WHEN PETITIONS INVOLVING THE SAME DEBTOR OR RELATED DEBTORS ARE FILED IN DIFFERENT COURTS. If petitions commencing cases under the Code or seeking recognition under chapter 15 are filed in different districts by, regarding, or against (1) the same debtor, (2) a partnership and one or more of its general partners, (3) two or more general partners, or (4) a debtor and an affiliate, the court in the district in which the first-filed petition is pending may determine, in the interest of justice or	**(b) Petitions Involving the Same or Related Debtors Filed in Different Districts.** **(1)** ***Scope.*** This Rule 1014(b) applies if petitions commencing cases or seeking recognition under Chapter 15 are filed in different districts by, regarding, or against: (A) the same debtor; (B) a partnership and one or more of its general partners; (C) two or more general partners; or (D) a debtor and an affiliate.

<table>
<tr><th>ORIGINAL</th><th>REVISION</th></tr>
<tr><td>for the convenience of the parties, the district or districts in which any of the cases should proceed. The court may so determine on motion and after a hearing, with notice to the following entities in the affected cases: the United States trustee, entities entitled to notice under Rule 2002(a), and other entities as the court directs. The court may order the parties to the later-filed cases not to proceed further until it makes the determination.</td><td>(2) Court Action. The court in the district in which the first petition is filed may determine the district or districts in which the cases should proceed in the interest of justice or for the parties' convenience. The court may do so on timely motion and after a hearing on notice to:
• the United States trustee;
• entities entitled to notice under Rule 2002(a); and
• other entities as the court orders.
(3) Later-Filed Petitions. The court may order the parties in a case commenced by a later-filed petition not to proceed further until the motion is decided.</td></tr>
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Rule 1015. Consolidation or Joint Administration of Cases Pending in Same Court	**Rule 1015. Consolidating or Jointly Administering Cases Pending in the Same District**
(a) CASES INVOLVING SAME DEBTOR. If two or more petitions by, regarding, or against the same debtor are pending in the same court, the court may order consolidation of the cases.	**(a) Consolidating Cases Involving the Same Debtor.** The court may consolidate two or more cases regarding or brought by or against the same debtor that are pending in its district.
(b) CASES INVOLVING TWO OR MORE RELATED DEBTORS. If a joint petition or two or more petitions are pending in the same court by or against (1) spouses, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a debtor and an affiliate, the court may order a joint administration of the estates. Prior to entering an order the court shall give consideration to protecting creditors of different estates against potential conflicts of interest. An order directing joint administration of individual cases of spouses shall, if one spouse has elected the exemptions under § 522(b)(2) of the Code and the other has elected the exemptions under § 522(b)(3), fix a reasonable time within which either may amend the election so that both shall have elected the same exemptions. The order shall notify the debtors that unless they elect the same exemptions within the time fixed by the court, they will be deemed to have elected the exemptions provided by § 522(b)(2).	**(b) Jointly Administering Cases Involving Related Debtors; Exemptions of Spouses; Protective Orders to Avoid Conflicts of Interest.** **(1)** ***In General.*** The court may order joint administration of the estates in a joint case or in two or more cases pending in the court if they are brought by or against: (A) spouses; (B) a partnership and one or more of its general partners; (C) two or more general partners; or (D) a debtor and an affiliate. **(2)** ***Potential Conflicts of Interest.*** Before issuing a joint-administration order, the court must consider how to protect the creditors of different estates against potential conflicts of interest. **(3)** ***Exemptions in Cases Involving Spouses.*** If spouses have filed separate petitions, with one electing exemptions under § 522(b)(2) and the other under § 522(b)(3), and the court orders joint administration, that order must: (A) set a reasonable time for the debtors to elect the same exemptions; and

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	(B) advise the debtors that if they fail to do so, they will be considered to have elected exemptions under § 522(b)(2).
(c) EXPEDITING AND PROTECTIVE ORDERS. When an order for consolidation or joint administration of a joint case or two or more cases is entered pursuant to this rule, while protecting the rights of the parties under the Code, the court may enter orders as may tend to avoid unnecessary costs and delay.	**(c) Protective Orders to Avoid Unnecessary Costs and Delay.** When cases are consolidated or jointly administered, the court may issue orders to avoid unnecessary costs and delay while still protecting the parties' rights under the Code.

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Rule 1016. Death or Incompetency of Debtor	**Rule 1016. Death or Incompetency of a Debtor**
Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.	**(a) Chapter 7 Case.** In a Chapter 7 case, the debtor's death or incompetency does not abate the case. The case continues, as far as possible, as though the death or incompetency had not occurred. **(b) Chapter 11, 12, or 13 Case.** Upon the debtor's death or incompetency in a Chapter 11, 12, or 13 case, the court may dismiss the case or may continue it if further administration is possible and is in the parties' best interests. If the court chooses to continue, it must do so, as far as possible, as though the death or incompetency had not occurred.

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Rule 1017. Dismissal or Conversion of Case; Suspension	**Rule 1017. Dismissing a Case; Suspending Proceedings; Converting a Case to Another Chapter**
(a) VOLUNTARY DISMISSAL; DISMISSAL FOR WANT OF PROSECUTION OR OTHER CAUSE. Except as provided in §§ 707(a)(3), 707(b), 1208(b), and 1307(b) of the Code, and in Rule 1017(b), (c), and (e), a case shall not be dismissed on motion of the petitioner, for want of prosecution or other cause, or by consent of the parties, before a hearing on notice as provided in Rule 2002. For the purpose of the notice, the debtor shall file a list of creditors with their addresses within the time fixed by the court unless the list was previously filed. If the debtor fails to file the list, the court may order the debtor or another entity to prepare and file it.	**(a) Dismissing a Case.** Except as provided in § 707(a)(3), 707(b), 1208(b), or 1307(b), or in Rule 1017(b), (c), or (e), the court must conduct a hearing on notice under Rule 2002 before dismissing a case for any reason. For the purpose of the notice, a debtor who has not already done so must, before the court's deadline, file a list of creditors and their addresses. If the debtor fails to timely file the list, the court may order the debtor or another entity to do so.
(b) DISMISSAL FOR FAILURE TO PAY FILING FEE. (1) If any installment of the filing fee has not been paid, the court may, after a hearing on notice to the debtor and the trustee, dismiss the case. (2) If the case is dismissed or closed without full payment of the filing fee, the installments collected shall be distributed in the same manner and proportions as if the filing fee had been paid in full.	**(b) Dismissing a Case for Failure to Pay an Installment Toward the Filing Fee.** If the debtor fails to pay any installment toward the filing fee, the court may dismiss the case after a hearing on notice to the debtor and trustee. If the court dismisses or closes the case without full payment of the filing fee, previous installment payments must be distributed as if full payment had been made.
(c) DISMISSAL OF VOLUNTARY CHAPTER 7 OR CHAPTER 13 CASE FOR FAILURE TO TIMELY FILE LIST OF CREDITORS, SCHEDULES, AND STATEMENT OF FINANCIAL AFFAIRS. The court may dismiss a voluntary chapter 7 or chapter 13 case under § 707(a)(3) or § 1307(c)(9) after a hearing on notice served by the United	**(c) Dismissing a Voluntary Chapter 7 or Chapter 13 Case for Failure to File a Document on Time.** On motion of the United States trustee, the court may dismiss a voluntary Chapter 7 case under § 707(a)(3), or a Chapter 13 case under § 1307(c)(9), for a failure to timely file the information required by § 521(a)(1). But the court may do so only after a hearing on

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States trustee on the debtor, the trustee, and any other entities as the court directs.	notice served by the United States trustee on the debtor, trustee, and any other entity as the court orders.
(d) SUSPENSION. The court shall not dismiss a case or suspend proceedings under § 305 before a hearing on notice as provided in Rule 2002(a).	**(d) Dismissing a Case or Suspending Proceedings Under § 305.** The court may dismiss a case or suspend proceedings under § 305 only after a hearing on notice under Rule 2002(a).
(e) DISMISSAL OF AN INDIVIDUAL DEBTOR'S CHAPTER 7 CASE, OR CONVERSION TO A CASE UNDER CHAPTER 11 OR 13, FOR ABUSE. The court may dismiss or, with the debtor's consent, convert an individual debtor's case for abuse under § 707(b) only on motion and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entity as the court directs. (1) Except as otherwise provided in § 704(b)(2), a motion to dismiss a case for abuse under § 707(b) or (c) may be filed only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed before the time has expired, the court for cause extends the time for filing the motion to dismiss. The party filing the motion shall set forth in the motion all matters to be considered at the hearing. In addition, a motion to dismiss under § 707(b)(1) and (3) shall state with particularity the circumstances alleged to constitute abuse. (2) If the hearing is set on the court's own motion, notice of the hearing shall be served on the debtor no later than 60 days after the first date set for the meeting of creditors under § 341(a). The notice shall set forth all matters to be considered by the court at the hearing.	**(e) Dismissing an Individual Debtor's Chapter 7 Case for Abuse; Converting the Case to Chapter 11 or 13.** (1) ***In General.*** On motion under § 707(b), the court may dismiss an individual debtor's Chapter 7 case for abuse or, with the debtor's consent, convert it to Chapter 11 or 13. The court may do so only after a hearing on notice to: • the debtor, • the trustee, • the United States trustee, and • any other entity as the court orders. (2) ***Time to File.*** Except as § 704(b)(2) provides otherwise, a motion to dismiss a case for abuse under § 707(b) or (c) must be filed within 60 days after the first date set for the meeting of creditors under § 341(a). On request made within the 60-day period, the court may, for cause, extend the time to file. The motion must: (A) set forth all matters to be considered at the hearing; and (B) if made under § 707(b)(1) and (3), state with particularity the circumstances alleged to constitute abuse.

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	(3) ***Hearing on the Court's Own Motion.*** If the hearing is set on the court's own motion, the clerk must serve notice on the debtor within 60 days after the first date set for the meeting of creditors under § 341(a). The notice must set forth all matters to be considered at the hearing.
(f) PROCEDURE FOR DISMISSAL, CONVERSION, OR SUSPENSION. (1) Rule 9014 governs a proceeding to dismiss or suspend a case, or to convert a case to another chapter, except under §§ 706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b). (2) Conversion or dismissal under §§ 706(a), 1112(a), 1208(b), or 1307(b) shall be on motion filed and served as required by Rule 9013. (3) A chapter 12 or chapter 13 case shall be converted without court order when the debtor files a notice of conversion under §§ 1208(a) or 1307(a). The filing date of the notice becomes the date of the conversion order for the purposes of applying § 348(c) and Rule 1019. The clerk shall promptly transmit a copy of the notice to the United States trustee.	**(f) Procedures for Dismissing, Suspending, or Converting a Case.** (1) ***In General.*** Rule 9014 governs a proceeding to dismiss or suspend a case or to convert it to another chapter—except under § 706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b). (2) ***Cases Requiring a Motion.*** Dismissing or converting a case under § 706(a), 1112(a), 1208(b), or 1307(b) requires a motion filed and served as required by Rule 9013. (3) ***Conversion Date in a Chapter 12 or 13 Case.*** If the debtor files a conversion notice under § 1208(a) or § 1307(a), the case will be converted without court order, and the filing date of the notice becomes the conversion date in applying § 348(c) or Rule 1019. The clerk must promptly send a copy of the notice to the United States trustee.

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Rule 1018. Contested Involuntary Petitions; Contested Petitions Commencing Chapter 15 Cases; Proceedings to Vacate Order for Relief; Applicability of Rules in Part VII Governing Adversary Proceedings	**Rule 1018. Contesting a Petition in an Involuntary or Chapter 15 Case; Vacating an Order for Relief; Applying Part VII Rules**
Unless the court otherwise directs and except as otherwise prescribed in Part I of these rules, the following rules in Part VII apply to all proceedings contesting an involuntary petition or a chapter 15 petition for recognition, and to all proceedings to vacate an order for relief: Rules 7005, 7008–7010, 7015, 7016, 7024–7026, 7028–7037, 7052, 7054, 7056, and 7062. The court may direct that other rules in Part VII shall also apply. For the purposes of this rule a reference in the Part VII rules to adversary proceedings shall be read as a reference to proceedings contesting an involuntary petition or a chapter 15 petition for recognition, or proceedings to vacate an order for relief. Reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.	**(a) Applying Part VII Rules.** Unless the court orders or a Part I rule provides otherwise, Rules 7005, 7008–10, 7015–16, 7024–26, 7028–37, 7052, 7054, 7056, and 7062—together with any other Part VII rules as the court may direct—apply to the following: (1) a proceeding contesting either an involuntary petition or a Chapter 15 petition for recognition; and (2) a proceeding to vacate an order for relief. **(b) References to "Adversary Proceedings."** Any reference to "adversary proceedings" in the rules listed in (a) is a reference to the proceedings listed in (a)(1)–(2). **(c) "Complaint" Means "Petition."** For the proceedings described in (a), a reference to the "complaint" in the Federal Rules of Civil Procedure must be read as a reference to the petition.

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Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case	**Rule 1019. Converting or Reconverting a Chapter 11, 12, or 13 Case to Chapter 7**
When a chapter 11, chapter 12, or chapter 13 case has been converted or reconverted to a chapter 7 case: (1) Filing of Lists, Inventories, Schedules, Statements. (A) Lists, inventories, schedules, and statements of financial affairs theretofore filed shall be deemed to be filed in the chapter 7 case, unless the court directs otherwise. If they have not been previously filed, the debtor shall com-ply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the date of the entry of the order directing that the case continue under chapter 7. (B) If a statement of intention is required, it shall be filed within 30 days after entry of the order of conversion or before the first date set for the meeting of creditors, whichever is earlier. The court may grant an extension of time for cause only on written motion filed, or oral request made during a hearing, before the time has expired. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.	**(a) Papers Previously Filed; New Filing Dates; Statement of Intention.** **(1)** ***Papers Previously Filed.*** Unless the court orders otherwise, when a Chapter 11, 12, or 13 case is converted or reconverted to Chapter 7, the lists, inventories, schedules, and statements of financial affairs previously filed are considered filed in the Chapter 7 case. If they have not been previously filed, the debtor must comply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the same date as the order directing that the case continue under Chapter 7. **(2)** ***Statement of Intention.*** A statement of intention, if required, must be filed within 30 days after the conversion order is entered or before the first date set for the meeting of creditors, whichever is earlier. The court may, for cause, extend the time to file only on motion filed —or on oral request made during a hearing—before the time has expired. Notice of an extension must be given to the United States trustee and to any committee, trustee, or other party as the court orders.
(2) New Filing Periods. (A) A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002,	**(b) New Period to File a § 707(b) or (c) Motion, a Proof of Claim, an Objection to a Discharge, or a Complaint to Determine Dischargeability.** **(1)** ***When a New Period Begins.*** When a case is converted to Chapter 7, a new

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4004, or 4007, but a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case. (B) A new time period for filing an objection to a claim of exemptions shall commence under Rule 4003(b) after conversion of a case to chapter 7 unless: (i) the case was converted to chapter 7 more than one year after the entry of the first order confirming a plan under chapter 11, 12, or 13; or (ii) the case was previously pending in chapter 7 and the time to object to a claimed exemption had expired in the original chapter 7 case.	period begins under Rule 1017, 3002, 4004, or 4007 for filing: (A) a motion under § 707(b) or (c); (B) a proof of claim; (C) a complaint objecting to a discharge; or (D) a complaint to determine whether a specific debt may be discharged. **(2)** ***When a New Period Does Not Begin.*** No new period to file begins when a case is reconverted to Chapter 7 after a previous conversion to Chapter 11, 12, or 13 if the time to file in the original Chapter 7 case has expired. **(3)** ***New Period to Object to a Claimed Exemption.*** When a case is converted to Chapter 7, a new period begins under Rule 4003(b) to object to a claimed exemption unless: (A) more than 1 year has elapsed since the court issued the first order confirming a plan under Chapter 11, 12, or 13, or (B) the case was previously pending in Chapter 7 and time has expired to object to a claimed exemption in the original Chapter 7 case.
(3) Claims Filed Before Conversion. All claims actually filed by a creditor before conversion of the case are deemed filed in the chapter 7 case.	**(c) Proof of Claim Filed Before Conversion.** A proof of claim filed by a creditor before conversion is considered filed in the Chapter 7 case.
(4) Turnover of Records and Property. After qualification of, or assumption of duties by the chapter 7 trustee, any debtor in possession or trustee previously acting in the chapter 11, 12, or 13 case shall, forthwith, unless otherwise ordered, turn over to the chapter 7 trustee all records and	**(d) Turning Over Records and Property.** Unless the court orders otherwise, after a trustee in the Chapter 7 case qualifies or assumes duties, the debtor in possession—or the previously acting trustee in the Chapter 11, 12, or 13 case—must promptly turn over to the Chapter 7 trustee all

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property of the estate in the possession or control of the debtor in possession or trustee.	records and property of the estate that are in its possession or control.
(5) Filing Final Report and Schedule of Postpetition Debts. (A) Conversion of Chapter 11 or Chapter 12 Case. Unless the court directs otherwise, if a chapter 11 or chapter 12 case is converted to chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion, shall: (i) not later than 14 days after conversion of the case, file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and (ii) not later than 30 days after conversion of the case, file and transmit to the United States trustee a final report and account; (B) Conversion of Chapter 13 Case. Unless the court directs otherwise, if a chapter 13 case is converted to chapter 7, (i) the debtor, not later than 14 days after conversion of the case, shall file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and (ii) the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account; (C) Conversion After Confirmation of a Plan. Unless the court	**(e) Final Report and Account; Schedule of Unpaid Postpetition Debts.** **(1)** ***In a Chapter 11 or Chapter 12 Case.*** Unless the court orders otherwise, when a Chapter 11 or 12 case is converted to Chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion must: (A) within 14 days after conversion, file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name and address of each claim holder; and (B) within 30 days after conversion, file and send to the United States trustee a final report and account. **(2)** ***In a Chapter 13 Case.*** Unless the court orders otherwise, when a Chapter 13 case is converted to Chapter 7: (A) within 14 days after conversion, the debtor must file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name and address of each claim holder; and (B) within 30 days after conversion, the trustee must file and send to the United States trustee a final report and account. **(3)** ***Converting a Case to Chapter 7 After a Plan Has Been Confirmed.*** Unless the court orders otherwise, if a case under Chapter 11, 12, or 13 is converted to a case under Chapter 7

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orders otherwise, if a chapter 11, chapter 12, or chapter 13 case is converted to chapter 7 after confirmation of a plan, the debtor shall file: (i) a schedule of property not listed in the final report and account acquired after the filing of the petition but before conversion, except if the case is converted from chapter 13 to chapter 7 and § 348(f)(2) does not apply; (ii) a schedule of unpaid debts not listed in the final report and account incurred after confirmation but before the conversion; and (iii) a schedule of executory contracts and unexpired leases entered into or assumed after the filing of the petition but before conversion. (D) Transmission to United States Trustee. The clerk shall forthwith transmit to the United States trustee a copy of every schedule filed pursuant to Rule 1019(5).	after a plan is confirmed, the debtor must file: (A) a schedule of property that was acquired after the petition was filed but before conversion and was not listed in the final report and account, except when a Chapter 13 case is converted to Chapter 7 and § 348(f)(2) does not apply; (B) a schedule of unpaid debts that were incurred after confirmation but before conversion and were not listed in the final report and account; and (C) a schedule of executory contracts and unexpired leases that were entered into or assumed after the petition was filed but before conversion. **(4)** ***Copy to the United States Trustee.*** The clerk must promptly send to the United States trustee a copy of any schedule filed under this Rule 1019(e).
(6) Postpetition Claims; Preconversion Administrative Expenses; Notice. A request for payment of an administrative expense incurred before conversion of the case is timely filed under § 503(a) of the Code if it is filed before conversion or a time fixed by the court. If the request is filed by a governmental unit, it is timely if it is filed before conversion or within the later of a time fixed by the court or 180 days after the date of the conversion. A claim of a kind specified in § 348(d) may be filed in accordance with Rules 3001(a)–(d) and 3002. Upon the filing of the schedule of unpaid debts incurred after commencement of the case and before conversion, the clerk, or some other person as the court may direct, shall give notice to those entities listed on the schedule of the	**(f) Postpetition Claims; Preconversion Administrative Expenses.** **(1)** ***Request to Pay an Administrative Expense; Time to File.*** A request to pay an administrative expense incurred before conversion is timely filed under § 503(a) if it is filed before conversion or within a time set by the court. A request by a governmental unit is timely if it is filed: (A) before conversion; or (B) within 180 days after conversion or within a time set by the court, whichever is later. **(2)** ***Proof of Claim Against the Debtor or the Estate.*** A proof of claim under § 348(d) against either the debtor or

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time for filing a request for payment of an administrative expense and, unless a notice of insufficient assets to pay a dividend is mailed in accordance with Rule 2002(e), the time for filing a claim of a kind specified in § 348(d).	the estate may be filed as specified in Rules 3001(a)–(d) and 3002. **(3)** ***Giving Notice of Certain Time Limits.*** After the filing of a schedule of debts incurred after the case was commenced but before conversion, the clerk, or the court's designee, must notify the entities listed on the schedule of: (A) the time to request payment of an administrative expense; and (B) the time to file a proof of claim under § 348(d), unless a notice of insufficient assets to pay a dividend has been mailed under Rule 2002(e).

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Rule 1020. Small Business Chapter 11 Reorganization Case	**Rule 1020. Designating a Chapter 11 Case as a Small Business Case**
(a) SMALL BUSINESS DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor. Except as provided in subdivision (c), the status of the case as a small business case shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.	**(a) In General.** In a voluntary Chapter 11 case, the debtor must state in the petition whether the debtor is a small business debtor. In an involuntary case, the debtor must do so in a statement filed within 14 days after the order for relief is entered. Unless (c) applies, the case must proceed in accordance with the debtor's statement, unless and until the court issues an order finding that the debtor's statement is incorrect.
(b) OBJECTING TO DESIGNATION. Except as provided in subdivision (c), the United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) no later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later.	**(b) Objecting to the Designation.** Unless (c) applies, the United States trustee or a party in interest may object to the debtor's designation. The objection must be filed within 30 days after the conclusion of the meeting of creditors held under § 341(a) or within 30 days after an amendment to the designation is filed, whichever is later.
(c) APPOINTMENT OF COMMITTEE OF UNSECURED CREDITORS. If a committee of unsecured creditors has been appointed under § 1102(a)(1), the case shall proceed as a small business case only if, and from the time when, the court enters an order determining that the committee has not been sufficiently active and representative to provide effective oversight of the debtor and that the debtor satisfies all the other requirements for being a small business. A request for a determination under this	**(c) When a Committee of Unsecured Creditors Has Been Appointed.** **(1)** ***Determining Whether the Committee Is Active and Representative.*** If a committee of unsecured creditors has been appointed under § 1102(a)(1), the case may proceed as a small business case only if, and from the time when, the court determines that: (A) the committee is not sufficiently active and representative in

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subdivision may be filed by the United States trustee or a party in interest only within a reasonable time after the failure of the committee to be sufficiently active and representative. The debtor may file a request for a determination at any time as to whether the committee has been sufficiently active and representative.	providing effective oversight of the debtor; and (B) the debtor satisfies all other requirements for a small business debtor. **(2)** ***Motion for a Court Determination.*** Within a reasonable time after the committee has become insufficiently active or representative, the United States trustee or a party in interest may move for a determination by the court. The debtor may do so at any time.
(d) PROCEDURE FOR OBJECTION OR DETERMINATION. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on: the debtor; the debtor's attorney; the United States trustee; the trustee; any committee appointed under § 1102 or its authorized agent, or, if no committee of unsecured creditors has been appointed under § 1102, the creditors included on the list filed under Rule 1007(d); and any other entity as the court directs.	**(d)** **Procedure; Service.** An objection or request under this rule is governed by Rule 9014 and must be served on: • the debtor; • the debtor's attorney; • the United States trustee; • the trustee; • any committee appointed under § 1102 or its authorized agent, or, if no unsecured creditors' committee has been appointed, the creditors on the list filed under Rule 1007(d); and • any other entity as the court orders.

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Rule 1021. Health Care Business Case	**Rule 1021. Designating a Chapter 7, 9, or 11 Case as a Health Care Business Case**
(a) HEALTH CARE BUSINESS DESIGNATION. Unless the court orders otherwise, if a petition in a case under chapter 7, chapter 9, or chapter 11 states that the debtor is a health care business, the case shall proceed as a case in which the debtor is a health care business.	**(a) In General.** If a petition in a Chapter 7, 9, or 11 case designates the debtor as a health care business, the case must proceed in accordance with the designation unless the court orders otherwise.
(b) MOTION. The United States trustee or a party in interest may file a motion to determine whether the debtor is a health care business. The motion shall be transmitted to the United States trustee and served on: the debtor; the trustee; any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, the creditors included on the list filed under Rule 1007(d); and any other entity as the court directs. The motion shall be governed by Rule 9014.	**(b) Seeking a Court Determination.** The United States trustee or a party in interest may move the court to determine whether the debtor is a health care business. Proceedings on the motion are governed by Rule 9014. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. The motion must be served on: • the debtor; • the trustee; • any committee elected under § 705 or appointed under § 1102, or its authorized agent; • in a Chapter 9 or Chapter 11 case in which an unsecured creditors' committee has not been appointed under § 1102, the creditors on the list filed under Rule 1007(d); and • any other entity as the court orders.

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Bankruptcy Rules Restyling

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PART II— OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS	**PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS AND APPOINTMENTS; FINAL REPORT; COMPENSATION**
Rule 2001. Appointment of Interim Trustee Before Order for Relief in a Chapter 7 Liquidation Case	**Rule 2001. Appointing an Interim Trustee Before the Order for Relief in an Involuntary Chapter 7 Case**
(a) APPOINTMENT. At any time following the commencement of an involuntary liquidation case and before an order for relief, the court on written motion of a party in interest may order the appointment of an interim trustee under § 303(g) of the Code. The motion shall set forth the necessity for the appointment and may be granted only after hearing on notice to the debtor, the petitioning creditors, the United States trustee, and other parties in interest as the court may designate.	**(a) Appointing an Interim Trustee.** After an involuntary Chapter 7 case commences but before an order for relief, the court may, on a party in interest's motion, order the United States trustee to appoint an interim trustee under § 303(g). The motion must set forth the need for the appointment and may be granted only after a hearing on notice to: • the debtor; • the petitioning creditors; • the United States trustee; and • other parties in interest as the court orders.
(b) BOND OF MOVANT. An interim trustee may not be appointed under this rule unless the movant furnishes a bond in an amount approved by the court, conditioned to indemnify the debtor for costs, attorney's fee, expenses, and damages allowable under § 303(i) of the Code.	**(b) Bond Required.** An interim trustee may be appointed only if the movant furnishes a bond, in an amount that the court approves, to indemnify the debtor for any costs, attorney's fees, expenses, and damages allowable under § 303(i).
(c) ORDER OF APPOINTMENT. The order directing the appointment of an interim trustee shall state the reason the	**(c) The Order's Content.** The court's order must state the reason the appointment is needed and specify the trustee's duties.

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appointment is necessary and shall specify the trustee's duties.	
(d) TURNOVER AND REPORT. Following qualification of the trustee selected under § 702 of the Code, the interim trustee, unless otherwise ordered, shall (1) forthwith deliver to the trustee all the records and property of the estate in possession or subject to control of the interim trustee and, (2) within 30 days thereafter file a final report and account.	**(d) The Interim Trustee's Final Report.** Unless the court orders otherwise, after qualification of a trustee selected under § 702, the interim trustee must: (1) promptly deliver to the trustee all the records and property of the estate that are in the interim trustee's possession or under its control; and (2) within 30 days after the trustee qualifies, file a final report and account.

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Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee	**Rule 2002. Notices**
(a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: (1) the meeting of creditors under § 341 or § 1104(b) of the Code, which notice, unless the court orders otherwise, shall include the debtor's employer identification number, social security number, and any other federal taxpayer identification number; (2) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice; (3) the hearing on approval of a compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent; (4) in a chapter 7 liquidation, a chapter 11 reorganization case, or a chapter 12 family farmer debt adjustment case, the hearing on the dismissal of the case or the conversion of the case to another chapter, unless the hearing is under § 707(a)(3) or § 707(b) or is on dismissal of the case for	**(a) 21-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees.** Except as (h), (i), (*l*), (p), and (q) provide otherwise, the clerk or the court's designee must give the debtor, the trustee, all creditors, and all indenture trustees at least 21 days' notice by mail of: (1) the meeting of creditors under § 341 or § 1104(b), which notice—unless the court orders otherwise—must include the debtor's: (A) employer-identification number; (B) social-security number; and (C) any other federal taxpayer-identification number; (2) a proposal to use, sell, or lease property of the estate other than in the ordinary course of business—unless the court, for cause, shortens the time or orders another method of giving notice; (3) a hearing to approve a compromise or settlement other than an agreement under Rule 4001(d)—unless the court, for cause, orders that notice not be sent; (4) a hearing on a motion to dismiss a Chapter 7, 11, or 12 case or convert it to another chapter—unless the hearing is under § 707(a)(3) or § 707(b) or is on a motion to dismiss the case for failure to pay the filing fee;

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failure to pay the filing fee; (5) the time fixed to accept or reject a proposed modification of a plan; (6) a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds $1,000; (7) the time fixed for filing proofs of claims pursuant to Rule 3003(c); (8) the time fixed for filing objections and the hearing to consider confirmation of a chapter 12 plan; and (9) the time fixed for filing objections to confirmation of a chapter 13 plan.	(5) the time to accept or reject a proposal to modify a plan; (6) a hearing on a request for compensation or for reimbursement of expenses, if the request exceeds $1,000; (7) the time to file proofs of claims under Rule 3003(c); (8) the time to file objections to—and the time of the hearing to consider whether to confirm—a Chapter 12 plan; and (9) the time to object to confirming a Chapter 13 plan.
(b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; (2) for filing objections and the hearing to consider confirmation of a chapter 9 or chapter 11 plan; and (3) for the hearing to consider confirmation of a chapter 13 plan.	**(b) 28-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees.** Except as (*l*) provides otherwise, the clerk or the court's designee must give the debtor, trustee, all creditors, and all indenture trustees at least 28 days' notice by mail of: (1) the time to file objections and the time of a hearing to: (A) consider approving a disclosure statement; or (B) determine under § 1125(f) whether a plan includes adequate information to make a separate disclosure statement unnecessary; (2) the time to file objections to—and the time of the hearing to consider whether to confirm—a Chapter 9 or 11 plan; and (3) the time of a hearing to consider whether to confirm a Chapter 13 plan.

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(c) CONTENT OF NOTICE. (1) *Proposed Use, Sale, or Lease of Property.* Subject to Rule 6004, the notice of a proposed use, sale, or lease of property required by subdivision (a)(2) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. The notice of a proposed use, sale, or lease of property, including real estate, is sufficient if it generally describes the property. The notice of a proposed sale or lease of personally identifiable information under § 363(b)(1) of the Code shall state whether the sale is consistent with any policy prohibiting the transfer of the information. (2) *Notice of Hearing on Compensation.* The notice of a hearing on an application for compensation or reimbursement of expenses required by subdivision (a)(6) of this rule shall identify the applicant and the amounts requested. (3) *Notice of Hearing on Confirmation When Plan Provides for an Injunction.* If a plan provides for an injunction against conduct not otherwise enjoined under the Code, the notice required under Rule 2002(b)(2) shall: (A) include in conspicuous language (bold, italic, or underlined text) a statement that the plan proposes an injunction; (B) describe briefly the nature of the injunction; and (C) identify the entities that would be subject to the injunction.	**(c) Content of Notice.** **(1)** ***Proposed Use, Sale, or Lease of Property.*** Subject to Rule 6004, a notice of a proposed use, sale, or lease of property under (a)(2) must include: (A) the time and place of any public sale; (B) the terms and conditions of any private sale; and (C) the time to file objections. The notice suffices if it generally describes the property. In a notice of a proposed sale or lease of personally identifiable information under § 363(b)(1), the notice must state whether the sale is consistent with any policy that prohibits transferring the information. **(2)** ***Hearing on an Application for Compensation or Reimbursement.*** A notice under (a)(6) of a hearing on a request for compensation or for reimbursement of expenses must identify the applicant and the amounts requested. **(3)** ***Hearing on Confirming a Plan That Proposes an Injunction.*** If a plan proposes an injunction against conduct not otherwise enjoined under the Code, the notice under (b)(2) must: (A) state in conspicuous language (bold, italic, or underlined text) that the plan proposes an injunction; (B) describe briefly the nature of the injunction; and (C) identify the entities that would be subject to it.
(d) NOTICE TO EQUITY SECURITY HOLDERS. In a chapter 11	**(d) Notice to Equity Security Holders in a Chapter 11 Case.** Unless the court orders

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reorganization case, unless otherwise ordered by the court, the clerk, or some other person as the court may direct, shall in the manner and form directed by the court give notice to all equity security holders of (1) the order for relief; (2) any meeting of equity security holders held pursuant to § 341 of the Code; (3) the hearing on the proposed sale of all or substantially all of the debtor's assets; (4) the hearing on the dismissal or conversion of a case to another chapter; (5) the time fixed for filing objections to and the hearing to consider approval of a disclosure statement; (6) the time fixed for filing objections to and the hearing to consider confirmation of a plan; and (7) the time fixed to accept or reject a proposed modification of a plan.	otherwise, in a Chapter 11 case, the clerk or the court's designee must give notice as the court orders to the equity security holders of: (1) the order for relief; (2) a meeting of equity security holders under § 341; (3) a hearing on a proposed sale of all, or substantially all, the debtor's assets; (4) a hearing on a motion to dismiss a case or convert it to another chapter; (5) the time to file objections to—and the time of the hearing to consider whether to approve—a disclosure statement; (6) the time to file objections to—and the time of the hearing to consider whether to confirm—a Chapter 11 plan; and (7) the time to accept or reject a proposal to modify a plan.
(e) NOTICE OF NO DIVIDEND. In a chapter 7 liquidation case, if it appears from the schedules that there are no assets from which a dividend can be paid, the notice of the meeting of creditors may include a statement to that effect; that it is unnecessary to file claims; and that if sufficient assets become available for the payment of a dividend, further notice will be given for the filing of claims.	**(e) Notice of No Dividend in a Chapter 7 Case.** In a Chapter 7 case, if it appears from the schedules that there are no assets from which to pay a dividend, the notice of the meeting of creditors may state: (1) that fact; (2) that filing proofs of claim is unnecessary; and (3) that further notice of the time to file proofs of claim will be given if enough assets become available to pay a dividend.
(f) OTHER NOTICES. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees	**(f) Other Notices.** **(1) *Various Notices to the Debtor, Creditors, and Indenture Trustees.*** Except as (*l*) provides otherwise, the clerk, or some other person as the

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notice by mail of: (1) the order for relief; (2) the dismissal or the conversion of the case to another chapter, or the suspension of proceedings under § 305; (3) the time allowed for filing claims pursuant to Rule 3002; (4) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004; (5) the time fixed for filing a complaint to determine the dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007; (6) the waiver, denial, or revocation of a discharge as provided in Rule 4006; (7) entry of an order confirming a chapter 9, 11, or 12 plan; (8) a summary of the trustee's final report in a chapter 7 case if the net proceeds realized exceed $1,500; (9) a notice under Rule 5008 regarding the presumption of abuse; (10) a statement under § 704(b)(1) as to whether the debtor's case would be presumed to be an abuse under § 707(b); and (11) the time to request a delay in the entry of the discharge under §§ 1141(d)(5)(C), 1228(f), and 1328(h). Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) shall be given in accordance with Rule 3017(d).	court may direct, must give the debtor, creditors, and indenture trustees notice by mail of: (A) the order for relief; (B) a case's dismissal or conversion to another chapter; (C) a suspension of proceedings under § 305; (D) the time to file a proof of claim under Rule 3002; (E) the time to file a complaint to object to the debtor's discharge under § 727, as Rule 4004 provides; (F) the time to file a complaint to determine whether a debt is dischargeable under § 523, as Rule 4007 provides; (G) a waiver, denial, or revocation of a discharge, as Rule 4006 provides; (H) entry of an order confirming a plan in a Chapter 9, 11, or 12 case; (I) a summary of the trustee's final report in a Chapter 7 case if the net proceeds realized exceed $1,500; (J) a notice under Rule 5008 regarding the presumption of abuse; (K) a statement under § 704(b)(1) about whether the debtor's case would be presumed to be an abuse under § 707(b); and (L) the time to request a delay in granting the discharge under §§ 1141(d)(5)(C), 1228(f), or 1328(h). **(2)** ***Notice of the Time to Accept or Reject a Plan.*** Notice of the time to accept or reject a plan under

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	Rule 3017(c) must be given in accordance with Rule 3017(d).
(g) ADDRESSING NOTICES. (1) Notices required to be mailed under Rule 2002 to a creditor, indenture trustee, or equity security holder shall be addressed as such entity or an authorized agent has directed in its last request filed in the particular case. For the purposes of this subdivision— (A) a proof of claim filed by a creditor or indenture trustee that designates a mailing address constitutes a filed request to mail notices to that address, unless a notice of no dividend has been given under Rule 2002(e) and a later notice of possible dividend under Rule 3002(c)(5) has not been given; and (B) a proof of interest filed by an equity security holder that designates a mailing address constitutes a filed request to mail notices to that address. (2) Except as provided in § 342(f) of the Code, if a creditor or indenture trustee has not filed a request designating a mailing address under Rule 2002(g)(1) or Rule 5003(e), the notices shall be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request designating a mailing address under Rule 2002(g)(1) or Rule 5003(e), the notices shall be mailed to the address shown on the list of equity security holders. (3) If a list or schedule filed under Rule 1007 includes the name and address of a legal representative of an infant or incompetent person, and a person other than that representative	**(g) Addressing Notices.** **(1)** ***In General.*** A notice mailed to a creditor, indenture trustee, or equity security holder must be addressed as the entity or its authorized agent provided in its last request filed in the case. The request may be: (A) a proof of claim filed by a creditor or an indenture trustee designating a mailing address (unless a notice of no dividend has been given under (e) and a later notice of a possible dividend under Rule 3002(c)(5) has not been given); or (B) a proof of interest filed by an equity security holder designating a mailing address. **(2)** ***When No Request Has Been Filed.*** Except as § 342(f) provides otherwise, if a creditor or indenture trustee has not filed a request under (1) or Rule 5003(e), the notice must be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request, the notice must be mailed to the address shown on the list of equity security holders. **(3)** ***Notices to Representatives of an Infant or Incompetent Person.*** If a list or schedule filed under Rule 1007 includes a name and address of an infant's or an incompetent person's representative, and a person other than that representative files a request or proof of claim designating a different name and mailing address, then unless the court orders otherwise, the notice

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files a request or proof of claim designating a name and mailing address that differs from the name and address of the representative included in the list or schedule, unless the court orders otherwise, notices under Rule 2002 shall be mailed to the representative included in the list or schedules and to the name and address designated in the request or proof of claim. (4) Notwithstanding Rule 2002(g)(1)–(3), an entity and a notice provider may agree that when the notice provider is directed by the court to give a notice, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law. (5) A creditor may treat a notice as not having been brought to the creditor's attention under § 342(g)(1) only if, prior to issuance of the notice, the creditor has filed a statement that designates the name and address of the person or organizational subdivision of the creditor responsible for receiving notices under the Code, and that describes the procedures established by the creditor to cause such notices to be delivered to the designated person or subdivision.	must be mailed to both persons at their designated addresses. **(4)** ***Using an Address Agreed to Between an Entity and a Notice Provider.*** When the court orders that a notice provider give a notice, the provider may do so in the manner agreed to between the provider and an entity, and at the address or addresses the entity supplies. An address supplied by the entity is conclusively presumed to be a proper address for the notice. But a failure to use a supplied address does not invalidate a notice that is otherwise effective under applicable law. **(5)** ***When a Notice Is Not Brought to a Creditor's Attention.*** A creditor may treat a notice as not having been brought to the creditor's attention under § 342(g)(1) only if, before the notice was issued, the creditor has filed a statement: (A) designating the name and address of the person or organizational subdivision responsible for receiving notices; and (B) describing the creditor's procedures for delivering notices to the designated person or organizational subdivision.
(h) NOTICES TO CREDITORS WHOSE CLAIMS ARE FILED. In a chapter 7 case, after 90 days following the first date set for the meeting of creditors under § 341 of the Code, the court may direct that all notices required by subdivision (a) of this rule be mailed	**(h) Notice to Creditors That Have Filed Proofs of Claim in a Chapter 7 Case.** **(1)** ***In General.*** In a Chapter 7 case, after 90 days following the first date set for the meeting of creditors under § 341,

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only to the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed, and creditors, if any, that are still permitted to file claims by reason of an extension granted pursuant to Rule 3002(c)(1) or (c)(2). In a case where notice of insufficient assets to pay a dividend has been given to creditors pursuant to subdivision (e) of this rule, after 90 days following the mailing of a notice of the time for filing claims pursuant to Rule 3002(c)(5), the court may direct that notices be mailed only to the entities specified in the preceding sentence.	the court may order that all notices required by (a) be mailed only to: • the debtor; • the trustee; • indenture trustees; • creditors with claims for which proofs of claim have been filed; and • creditors that have received an extension of time under Rule 3002(c)(1) or (2) to file proofs of claim. **(2)** ***When a Notice of Insufficient Assets Has Been Given.*** If notice of insufficient assets to pay a dividend has been given to creditors under (e), after 90 days following the mailing of a notice of the time to file proofs of claim under Rule 3002(c)(5), the court may order that notices be mailed only to those entities listed in (1).
(i) NOTICES TO COMMITTEES. Copies of all notices required to be mailed pursuant to this rule shall be mailed to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents. Notwithstanding the foregoing subdivisions, the court may order that notices required by subdivision (a)(2), (3) and (6) of this rule be transmitted to the United States trustee and be mailed only to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents and to the creditors and equity security holders who serve on the trustee or debtor in possession and file a request that all notices be mailed to them. A committee appointed under § 1114 shall receive copies of all notices required by	**(i) Notice to a Committee.** **(1)** ***In General.*** Any notice required to be mailed under this Rule 2002 must also be mailed to a committee elected under § 705 or appointed under § 1102, or to its authorized agent. **(2)** ***Limiting Notices.*** The court may order that a notice required by (a)(2), (3), or (6) be: (A) sent to the United States trustee; and (B) mailed only to: (i) the committees elected under § 705 or appointed under § 1102, or to their authorized agents; and

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subdivisions (a)(1), (a)(5), (b), (f)(2), and (f)(7), and such other notices as the court may direct.	(ii) those creditors and equity security holders who file—and serve on the trustee or debtor in possession—a request that all notices be mailed to them. **(3)** ***Copy to a Committee.*** A notice required under (a)(1), (a)(5), (b), (f)(1)(B)–(C), or (f)(1)(H)—and any other notice as the court orders—must be sent to a committee appointed under § 1114.
(j) NOTICES TO THE UNITED STATES. Copies of notices required to be mailed to all creditors under this rule shall be mailed (1) in a chapter 11 reorganization case, to the Securities and Exchange Commission at any place the Commission designates, if the Commission has filed either a notice of appearance in the case or a written request to receive notices; (2) in a commodity broker case, to the Commodity Futures Trading Commission at Washington, D.C.; (3) in a chapter 11 case, to the Internal Revenue Service at its address set out in the register maintained under Rule 5003(e) for the district in which the case is pending; (4) if the papers in the case disclose a debt to the United States other than for taxes, to the United States attorney for the district in which the case is pending and to the department, agency, or instrumentality of the United States through which the debtor became indebted; or (5) if the filed papers disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D.C.	**(j)** **Notice to the United States.** A notice required to be mailed to all creditors under this Rule 2002 must also be mailed: (1) in a Chapter 11 case in which the Securities and Exchange Commission has filed either a notice of appearance or a request to receive notices, to the SEC at any place it designates; (2) in a commodity-broker case, to the Commodity Futures Trading Commission at Washington, D.C.; (3) in a Chapter 11 case, to the Internal Revenue Service at the address in the register maintained under Rule 5003(e) for the district where the case is pending; (4) in a case for which the papers indicate that a debt (other than for taxes) is owed to the United States, to the United States attorney for the district where the case is pending and to the department, agency, or instrumentality of the United States through which the debtor became indebted; or (5) in a case for which the papers disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D.C.

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(k) NOTICES TO UNITED STATES TRUSTEE. Unless the case is a chapter 9 municipality case or unless the United States trustee requests otherwise, the clerk, or some other person as the court may direct, shall transmit to the United States trustee notice of the matters described in subdivisions (a)(2), (a)(3), (a)(4), (a)(8), (b), (f)(1), (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), and (q) of this rule and notice of hearings on all applications for compensation or reimbursement of expenses. Notices to the United States trustee shall be transmitted within the time prescribed in subdivision (a) or (b) of this rule. The United States trustee shall also receive notice of any other matter if such notice is requested by the United States trustee or ordered by the court. Nothing in these rules requires the clerk or any other person to transmit to the United States trustee any notice, schedule, report, application or other document in a case under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et. seq.	**(k) Notice to the United States Trustee.** **(1)** ***In General.*** Except in a Chapter 9 case or unless the United States trustee requests otherwise, the clerk or the court's designee must send to the United States trustee notice of: (A) all matters described in (a)(2)–(4), (a)(8), (b), (f)(1)(A)–(C), (f)(1)(E), (f)(1)(G)–(I), and (q); (B) all hearings on applications for compensation or for reimbursement of expenses; and (C) any other matter if the United States trustee requests it or the court orders it. **(2)** ***Time to Send.*** The notice must be sent within the time (a) or (b) prescribes. **(3)** ***Exception Under the Securities Investor Protection Act.*** In a case under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq., these rules do not require any document to be sent to the United States trustee.
(*l*) NOTICE BY PUBLICATION. The court may order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice.	**(*l*) Notice by Publication.** The court may order notice by publication if notice by mail is impracticable or if it is desirable to supplement the notice.
(m) ORDERS DESIGNATING MATTER OF NOTICES. The court may from time to time enter orders designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules.	**(m) Orders Concerning Notices.** Except as these rules provide otherwise, the court may designate the matters about which, the entity to whom, and the form and manner in which a notice must be sent.
(n) CAPTION. The caption of every notice given under this rule shall comply	**(n) Notice of an Order for Relief in a Consumer Case.** In a voluntary case

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with Rule 1005. The caption of every notice required to be given by the debtor to a creditor shall include the information required to be in the notice by § 342(c) of the Code.	commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order.
(o) NOTICE OF ORDER FOR RELIEF IN CONSUMER CASE. In a voluntary case commenced by an individual debtor whose debts are primarily consumer debts, the clerk or some other person as the court may direct shall give the trustee and all creditors notice by mail of the order for relief within 21 days from the date thereof.	**(o) Caption.** The caption of a notice given under this Rule 2002 must conform to Rule 1005. The caption of a debtor's notice to a creditor must also include the information that § 342(c) requires.
(p) NOTICE TO A CREDITOR WITH A FOREIGN ADDRESS. (1) If, at the request of the United States trustee or a party in interest, or on its own initiative, the court finds that a notice mailed within the time prescribed by these rules would not be sufficient to give a creditor with a foreign address to which notices under these rules are mailed reasonable notice under the circumstances, the court may order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be enlarged. (2) Unless the court for cause orders otherwise, a creditor with a foreign address to which notices under this rule are mailed shall be given at least 30 days' notice of the time fixed for filing a proof of claim under Rule 3002(c) or Rule 3003(c). (3) Unless the court for cause orders otherwise, the mailing address of a creditor with a foreign address shall be	**(p) Notice to a Creditor with Foreign Address.** **(1) *When Notice by Mail Does Not Suffice.*** At the request of the United States trustee or a party in interest, or on its own, the court may find that a notice mailed to a creditor with a foreign address within the time these rules prescribe would not give the creditor reasonable notice. The court may then order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be extended. **(2) *Notice of the Time to File a Proof of Claim.*** Unless the court, for cause, orders otherwise, a creditor with a foreign address must be given at least 30 days' notice of the time to file a proof of claim under Rule 3002(c) or Rule 3003(c). **(3) *Determining a Foreign Address.*** Unless the court, for cause, orders otherwise, the mailing address of a

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determined under Rule 2002(g).	creditor with a foreign address must be determined under (g).
(q) NOTICE OF PETITION FOR RECOGNITION OF FOREIGN PROCEEDING AND OF COURT'S INTENTION TO COMMUNICATE WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES. (1) *Notice of Petition for Recognition.* After the filing of a petition for recognition of a foreign proceeding, the court shall promptly schedule and hold a hearing on the petition. The clerk, or some other person as the court may direct, shall forthwith give the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, at least 21 days' notice by mail of the hearing. The notice shall state whether the petition seeks recognition as a foreign main proceeding or foreign nonmain proceeding and shall include the petition and any other document the court may require. If the court consolidates the hearing on the petition with the hearing on a request for provisional relief, the court may set a shorter notice period, with notice to the entities listed in this subdivision. (2) *Notice of Court's Intention to Communicate with Foreign Courts and Foreign Representatives.* The clerk, or some other person as the court may direct, shall give the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being	**(q) Notice of a Petition for Recognition of a Foreign Proceeding; Notice of Intent to Communicate with a Foreign Court or Foreign Representative.** **(1)** ***Timing of the Notice; Who Must Receive It.*** After a petition for recognition of a foreign proceeding is filed, the court must promptly hold a hearing on it. The clerk or the court's designee must promptly give at least 21 days' notice by mail of the hearing to: • the debtor; • all persons or bodies authorized to administer the debtor's foreign proceedings; • all entities against whom provisional relief is being sought under § 1519; • all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and • any other entities as the court orders. If the court consolidates the hearing on the petition with a hearing on a request for provisional relief, the court may set a shorter notice period. **(2)** ***Contents of the Notice.*** The notice must: (A) state whether the petition seeks recognition as a foreign main proceeding or a foreign nonmain proceeding; and

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sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, notice by mail of the court's intention to communicate with a foreign court or foreign representative.	(B) include a copy of the petition and any other document the court specifies. **(3)** ***Communicating with a Foreign Court or Foreign Representative.*** If the court intends to communicate with a foreign court or foreign representative, the clerk or the court's designee must give notice by mail of the court's intention to all those listed in (q)(1).

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Rule 2003. Meeting of Creditors or Equity Security Holders	**Rule 2003. Meeting of Creditors or Equity Security Holders**
(a) DATE AND PLACE. Except as otherwise provided in § 341(e) of the Code, in a chapter 7 liquidation or a chapter 11 reorganization case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 40 days after the order for relief. In a chapter 12 family farmer debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 35 days after the order for relief. In a chapter 13 individual's debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 50 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a later date for the meeting. The meeting may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest. If the United States trustee designates a place for the meeting which is not regularly staffed by the United States trustee or an assistant who may preside at the meeting, the meeting may be held not more than 60 days after the order for relief.	**(a) Date and Place of the Meeting.** **(1)** ***Date.*** Unless § 341(e) applies, the United States trustee must call a meeting of creditors to be held: (A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief; (B) in a Chapter 12 case, no fewer than 21 days and no more than 35 days after the order for relief; or (C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief. **(2)** ***Effect of a Motion or an Appeal.*** The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case. **(3)** ***Place; Possible Change in the Meeting Date.*** The meeting may be held at a regular place for holding court. Or the United States trustee may designate any other place in the district that is convenient for the parties in interest. If the designated meeting place is not regularly staffed by the United States trustee or an assistant who may preside, the meeting may be held no more than 60 days after the order for relief.
(b) ORDER OF MEETING. (1) Meeting of Creditors. The United States trustee shall preside at the meeting of creditors. The business of the meeting shall include the examination of the debtor under oath and, in a chapter 7 liquidation case, may	**(b) Conducting the Meeting; Agenda; Who May Vote.** **(1)** ***At a Meeting of Creditors.*** (A) *Generally*. The United States trustee must preside at the meeting of creditors. The meeting must include an examination of the

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include the election of a creditors' committee and, if the case is not under subchapter V of chapter 7, the election of a trustee. The presiding officer shall have the authority to administer oaths. (2) Meeting of Equity Security Holders. If the United States trustee convenes a meeting of equity security holders pursuant to § 341(b) of the Code, the United States trustee shall fix a date for the meeting and shall preside. (3) Right To Vote. In a chapter 7 liquidation case, a creditor is entitled to vote at a meeting if, at or before the meeting, the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote pursuant to § 702(a) of the Code unless objection is made to the claim or the proof of claim is insufficient on its face. A creditor of a partnership may file a proof of claim or writing evidencing a right to vote for the trustee for the estate of the general partner notwithstanding that a trustee for the estate of the partnership has previously qualified. In the event of an objection to the amount or allowability of a claim for the purpose of voting, unless the court orders otherwise, the United States trustee shall tabulate the votes for each alternative presented by the dispute and, if resolution of such dispute is necessary to determine the result of the election, the tabulations for each alternative shall be reported to the court.	debtor under oath. The presiding officer has the authority to administer oaths. (B) *Chapter 7 Cases*. In a Chapter 7 case, the meeting may include the election of a creditors' committee; and if the case is not under Subchapter V, the meeting may include electing a trustee. **(2)** ***At a Meeting of Equity Security Holders.*** If the United States trustee convenes a meeting of equity security holders under § 341(b), the United States trustee must set a date for the meeting and preside over it. **(3)** ***Who Has a Right to Vote; Objecting to the Right to Vote.*** (A) *In a Chapter 7 Case*. A creditor in a Chapter 7 case may vote if, at or before the meeting: (i) the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote under § 702(a); (ii) the proof of claim is not insufficient on its face; and (iii) no objection is made to the claim. (B) *In a Partnership Case*. A creditor in a partnership case may file a proof of claim or a writing evidencing a right to vote for a trustee for the general partner's estate even if a trustee for the partnership's estate has previously qualified. (C) *Objecting to the Amount or Allowability of a Claim for Voting Purposes*. Unless the court orders otherwise, if there is an objection to the amount or allowability of a claim for voting purposes, the United States trustee

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	must tabulate the votes for each alternative presented by the dispute. If resolving the dispute is necessary to determine the election's result, the United States trustee must report to the court the tabulations for each alternative.
(c) RECORD OF MEETING. Any examination under oath at the meeting of creditors held pursuant to § 341(a) of the Code shall be recorded verbatim by the United States trustee using electronic sound recording equipment or other means of recording, and such record shall be preserved by the United States trustee and available for public access until two years after the conclusion of the meeting of creditors. Upon request of any entity, the United States trustee shall certify and provide a copy or transcript of such recording at the entity's expense.	**(c) Recording the Proceedings.** At the meeting of creditors under § 341(a), the United States trustee must: (1) record verbatim—using electronic sound-recording equipment or other means of recording—all examinations under oath; (2) preserve the recording and make it available for public access for 2 years after the meeting concludes; and (3) upon request, certify and provide a copy or transcript of the recording to any entity at that entity's expense.
(d) REPORT OF ELECTION AND RESOLUTION OF DISPUTES IN A CHAPTER 7 CASE. (1) Report of Undisputed Election. In a chapter 7 case, if the election of a trustee or a member of a creditors' committee is not disputed, the United States trustee shall promptly file a report of the election, including the name and address of the person or entity elected and a statement that the election is undisputed. (2) Disputed Election. If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. No later than the date on which the	**(d) Reporting Election Results in a Chapter 7 Case.** **(1) *Undisputed Election.*** In a Chapter 7 case, if the election of a trustee or a member of a creditors' committee is undisputed, the United States trustee must promptly file a report of the election. The report must include the name and address of the person or entity elected and a statement that the election was undisputed. **(2) *Disputed Election.*** (A) *United States Trustee's Report.* If the election is disputed, the United States trustee must: (i) promptly file a report informing the court of the nature of the dispute and listing the name and address of any candidate elected

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report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 14 days after the United States trustee files a report of a disputed election for trustee, the interim trustee shall serve as trustee in the case.	under any alternative presented by the dispute; and (ii) no later than the date on which the report is filed, mail a copy to any party in interest that has requested one. (B) *Interim Trustee.* Until the court resolves the dispute, the interim trustee must continue in office. Unless a motion to resolve the dispute is filed within 14 days after the report is filed, the interim trustee must serve as trustee in the case.
(e) ADJOURNMENT. The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time. The presiding official shall promptly file a statement specifying the date and time to which the meeting is adjourned.	**(e) Adjournment.** The presiding official may adjourn the meeting from time to time by announcing at the meeting the date and time to reconvene. The presiding official must promptly file a statement showing the adjournment and the date and time to reconvene.
(f) SPECIAL MEETINGS. The United States trustee may call a special meeting of creditors on request of a party in interest or on the United States trustee's own initiative.	**(f) Special Meetings of Creditors.** The United States trustee may call a special meeting of creditors or may do so on request of a party in interest.
(g) FINAL MEETING. If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $1,500, the clerk shall mail a summary of the trustee's final account to the creditors with a notice of the meeting, together with a statement of the amount of the claims allowed. The trustee shall attend the final meeting and shall, if requested, report on the administration of the estate.	**(g) Final Meeting of Creditors.** If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $1,500, the clerk must give notice of the meeting to the creditors. The notice must include a summary of the trustee's final account and a statement of the amount of the claims allowed. The trustee must attend the meeting and, if requested, report on the administration of the estate.

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Rule 2004. Examination	**Rule 2004. Examinations**
(a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity.	**(a) In General.** On motion of a party in interest, the court may order the examination of any entity.
(b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.	**(b) Scope of the Examination.** **(1)** ***In General.*** The examination of an entity under this Rule 2004, or of a debtor under § 343, may relate only to: (A) the debtor's acts, conduct, or property; (B) the debtor's liabilities and financial condition; (C) any matter that may affect the administration of the debtor's estate; or (D) the debtor's right to a discharge. **(2)** ***Other Topics in Certain Cases.*** In a Chapter 12 or 13 case, or in a Chapter 11 case that is not a railroad reorganization, the examination may also relate to: (A) the operation of any business and the desirability of its continuing; (B) the source of any money or property the debtor acquired or will acquire for the purpose of consummating a plan and the consideration given or offered; and (C) any other matter relevant to the case or to formulating a plan.
(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS. The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as	**(c) Compelling Attendance and the Production of Documents.** Regardless of the district where the examination will be conducted, an entity may be compelled under Rule 9016 to attend and produce documents. An attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be

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provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending.	held if the attorney is admitted to practice in that court or in the court where the case is pending.
(d) TIME AND PLACE OF EXAMINATION OF DEBTOR. The court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending.	**(d) Time and Place to Examine the Debtor.** The court may, for cause and on terms it may impose, order the debtor to be examined under this Rule 2004 at any designated time and place, in or outside the district.
(e) MILEAGE. An entity other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered. If the debtor resides more than 100 miles from the place of examination when required to appear for an examination under this rule, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under the Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser.	**(e) Witness Fees and Mileage.** **(1)** ***For a Nondebtor Witness.*** An entity, except the debtor, may be required to attend as a witness only if the lawful mileage and witness fee for 1 day's attendance are first tendered. **(2)** ***For a Debtor Witness.*** A debtor witness must be tendered a mileage fee if required to appear for examination more than 100 miles from the debtor's residence. The fee need cover only the distance exceeding 100 miles from the debtor's residence at the time of the examination or when the first petition was filed, whichever residence is nearer.

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Rule 2005. Apprehension and Removal of Debtor to Compel Attendance for Examination	**Rule 2005. Apprehending and Removing a Debtor for Examination**
(a) ORDER TO COMPEL ATTENDANCE FOR EXAMINATION. On motion of any party in interest supported by an affidavit alleging (1) that the examination of the debtor is necessary for the proper administration of the estate and that there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid examination, or (2) that the debtor has evaded service of a subpoena or of an order to attend for examination, or (3) that the debtor has willfully disobeyed a subpoena or order to attend for examination, duly served, the court may issue to the marshal, or some other officer authorized by law, an order directing the officer to bring the debtor before the court without unnecessary delay. If, after hearing, the court finds the allegations to be true, the court shall thereupon cause the debtor to be examined forthwith. If necessary, the court shall fix conditions for further examination and for the debtor's obedience to all orders made in reference thereto.	**(a) Compelling the Debtor's Attendance.** **(1)** ***Order to Apprehend the Debtor.*** On motion of a party in interest, supported by an affidavit, the court may order a marshal or other official authorized by law to bring the debtor before the court without unnecessary delay. The affidavit must allege that: (A) an examination is necessary to properly administer the estate, and there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid the examination; (B) the debtor has evaded service of a subpoena or an order to attend the examination; or (C) the debtor has willfully disobeyed a duly served subpoena or order to attend the examination. **(2)** ***Ordering an Immediate Examination.*** If, after hearing, the court finds the allegations to be true, it must: (A) order the immediate examination of the debtor; and (B) if necessary, set conditions for further examination and for the debtor's obedience to any further order regarding it.
(b) REMOVAL. Whenever any order to bring the debtor before the court is issued under this rule and the debtor is found in a district other than that of the court issuing the order, the debtor may be taken into custody under the order and removed in accordance with the	**(b) Removing a Debtor to Another District for Examination.** **(1)** ***In General.*** When an order is issued under (a)(1) and the debtor is found in another district, the debtor may be

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following rules: (1) If the debtor is taken into custody under the order at a place less than 100 miles from the place of issue of the order, the debtor shall be brought forthwith before the court that issued the order. (2) If the debtor is taken into custody under the order at a place 100 miles or more from the place of issue of the order, the debtor shall be brought without unnecessary delay before the nearest available United States magistrate judge, bankruptcy judge, or district judge. If, after hearing, the magistrate judge, bankruptcy judge, or district judge finds that an order has issued under this rule and that the person in custody is the debtor, or if the person in custody waives a hearing, the magistrate judge, bankruptcy judge, or district judge shall order removal, and the person in custody shall be released on conditions ensuring prompt appearance before the court that issued the order to compel the attendance.	taken into custody and removed as provided in (2) and (3). **(2)** ***Within 100 Miles.*** A debtor who is taken into custody less than 100 miles from where the order was issued must be brought promptly before the court that issued the order. **(3)** ***At 100 Miles or More.*** A debtor who is taken into custody 100 miles or more from where the order was issued must be brought without unnecessary delay for a hearing before the nearest available United States magistrate judge, bankruptcy judge, or district judge. If, after hearing, the judge finds that the person in custody is the debtor and is subject to an order under (a)(1), or if the person waives a hearing, the judge must order removal, and must release the person in custody on conditions ensuring prompt appearance before the court that issued the order compelling attendance.
(c) CONDITIONS OF RELEASE. In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the provisions and policies of title 18, U.S.C., § 3146(a) and (b).	**(4)** ***Conditions of Release.*** 18 U.S.C. § 3146(a) and (b) govern the court's determination of what conditions will reasonably assure attendance and obedience under this Rule 2005.

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Rule 2006. Solicitation and Voting of Proxies in Chapter 7 Liquidation Cases	**Rule 2006. Soliciting and Voting Proxies in a Chapter 7 Case**
(a) APPLICABILITY. This rule applies only in a liquidation case pending under chapter 7 of the Code.	**(a) Applicability.** This Rule 2006 applies only in a Chapter 7 case.
(b) DEFINITIONS. (1) Proxy. A proxy is a written power of attorney authorizing any entity to vote the claim or otherwise act as the owner's attorney in fact in connection with the administration of the estate. (2) Solicitation of Proxy. The solicitation of a proxy is any communication, other than one from an attorney to a regular client who owns a claim or from an attorney to the owner of a claim who has requested the attorney to represent the owner, by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of the filing of a petition by or against the debtor.	**(b) Definitions.** **(1)** ***Proxy.*** A "proxy" is a written power of attorney that authorizes an entity to vote the claim or otherwise act as the holder's attorney-in-fact in connection with the administration of the estate. **(2)** ***Soliciting a Proxy.*** "Soliciting a proxy" means any communication by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of a Chapter 7 petition filed by or against the debtor. But such a communication is not considered soliciting a proxy if it comes from an attorney to a claim owner who is a regular client or who has requested the attorney's representation.
(c) AUTHORIZED SOLICITATION. (1) A proxy may be solicited only by (A) a creditor owning an allowable unsecured claim against the estate on the date of the filing of the petition; (B) a committee elected pursuant to § 705 of the Code; (C) a committee of creditors selected by a majority in number and amount of claims of creditors (i) whose claims are not contingent or unliquidated, (ii) who are not disqualified from voting under § 702(a) of the Code and (iii) who were present or represented at a meeting of which all creditors having claims of over $500 or the 100 creditors having the largest claims had at least seven days' notice in writing and of which meeting written minutes were kept and are available	**(c) Who May Solicit a Proxy.** A proxy may be solicited only in writing and only by: (1) a creditor that, on the date the petition was filed, held an allowable unsecured claim against the estate; (2) a committee elected under § 705; (3) a committee elected by creditors that hold a majority of claims in number and in total amount and that: (A) have claims that are not contingent or unliquidated; (B) are not disqualified from voting under § 702(a); and (C) were present or represented at a creditors' meeting of which:

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reporting the names of the creditors present or represented and voting and the amounts of their claims; or (D) a bona fide trade or credit association, but such association may solicit only creditors who were its members or subscribers in good standing and had allowable unsecured claims on the date of the filing of the petition. (2) A proxy may be solicited only in writing.	(i) all creditors with claims over $500 or the 100 creditors with the largest claims had at least 7 days' written notice; and (ii) written minutes are available that report the voting creditors' names and the amounts of their claims; or (4) a bona fide trade or credit association, which may solicit only creditors who, on the petition date: (A) were its members or subscribers in good standing; and (B) held allowable unsecured claims.
(d) SOLICITATION NOT AUTHORIZED. This rule does not permit solicitation (1) in any interest other than that of general creditors; (2) by or on behalf of any custodian; (3) by the interim trustee or by or on behalf of any entity not qualified to vote under § 702(a) of the Code; (4) by or on behalf of an attorney at law; or (5) by or on behalf of a transferee of a claim for collection only.	**(d) When Soliciting a Proxy Is Not Permitted.** This Rule 2006 does not permit soliciting a proxy: (1) for any interest except that of a general creditor; (2) by the interim trustee; or (3) by or on behalf of: (A) a custodian; (B) any entity not qualified to vote under § 702(a); (C) an attorney-at-law; or (D) a transferee holding a claim for collection purposes only.
(e) DATA REQUIRED FROM HOLDERS OF MULTIPLE PROXIES. At any time before the voting commences at any meeting of creditors pursuant to § 341(a) of the Code, or at any other time as the court may direct, a holder of two or more proxies shall file and transmit to the United States trustee a verified list of the proxies to be voted and a verified	**(e) Duties of Holders of Multiple Proxies.** Before voting begins at any meeting of creditors under § 341(a)—or at any other time the court orders—a holder of 2 or more proxies must file and send to the United States trustee a verified list of the proxies to be voted and a verified statement of the pertinent facts and circumstances regarding each proxy's execution and delivery. The statement must include:

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statement of the pertinent facts and circumstances in connection with the execution and delivery of each proxy, including: (1) a copy of the solicitation; (2) identification of the solicitor, the forwarder, if the forwarder is neither the solicitor nor the owner of the claim, and the proxyholder, including their connections with the debtor and with each other. If the solicitor, forwarder, or proxyholder is an association, there shall also be included a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were members or subscribers in good standing and had allowable unsecured claims on the date of the filing of the petition. If the solicitor, forwarder, or proxyholder is a committee of creditors, the statement shall also set forth the date and place the committee was organized, that the committee was organized in accordance with clause (B) or (C) of paragraph (c)(1) of this rule, the members of the committee, the amounts of their claims, when the claims were acquired, the amounts paid therefor, and the extent to which the claims of the committee members are secured or entitled to priority; (3) a statement that no consideration has been paid or promised by the proxyholder for the proxy; (4) a statement as to whether there is any agreement and, if so, the particulars thereof, between the proxyholder and any other entity for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any entity, other than a member or regular associate of the proxyholder's law firm,	(1) a copy of the solicitation; (2) an identification of the solicitor, the forwarder (if the forwarder is neither the solicitor nor the claim owner), and the proxyholder—including their connections with the debtor and with each other—together with: (A) if the solicitor, forwarder, or proxyholder is an association, a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were, on the petition date, members or subscribers in good standing with allowable unsecured claims; and (B) if the solicitor, forwarder, or proxyholder is a committee of creditors, a list stating: (i) the date and place the committee was organized; (ii) that the committee was organized under (c)(1)(B) or (C); (iii) the committee's members; (iv) the amounts of their claims; (v) when the claims were acquired; (vi) the amounts paid for the claims; and (vii) the extent to which the committee members' claims are secured or entitled to priority; (3) a statement that the proxyholder has neither paid nor promised any consideration for the proxy; (4) a statement addressing whether there is any agreement—and, if so, giving its

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which may be allowed the trustee or any entity for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate; (5) if the proxy was solicited by an entity other than the proxyholder, or forwarded to the holder by an entity who is neither a solicitor of the proxy nor the owner of the claim, a statement signed and verified by the solicitor or forwarder that no consideration has been paid or promised for the proxy, and whether there is any agreement, and, if so, the particulars thereof, between the solicitor or forwarder and any other entity for the payment of any consideration in connection with voting the proxy, or for sharing compensation with any entity other than a member or regular associate of the solicitor's or forwarder's law firm which may be allowed the trustee or any entity for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate; (6) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member as to the amount and source of any consideration paid or to be paid to such member in connection with the case other than by way of dividend on the member's claim.	particulars—between the proxyholder and any other entity to pay any consideration related to voting the proxy or to share with any entity (except a member or regular associate of the proxyholder's law firm) compensation that may be allowed to: (A) the trustee or any entity for services rendered in the case; or (B) any person employed by the estate; (5) if the proxy was solicited by an entity other than the proxyholder—or forwarded to the holder by an entity who is neither a solicitor of the proxy nor the claim owner—a statement signed and verified by the solicitor or forwarder: (A) confirming that no consideration has been paid or promised for the proxy; (B) addressing whether there is any agreement—and, if so, giving its particulars—between the solicitor or forwarder and any other entity to pay any consideration related to voting the proxy or to share with any entity (except a member or regular associate of the solicitor's or forwarder's law firm) compensation that may be allowed to: (i) the trustee or any entity for services rendered in the case; or (ii) any person employed by the estate; and (6) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member disclosing the amount and source of any consideration paid or to

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	be paid to the member in connection with the case, except a dividend on the member's claim.
(f) ENFORCEMENT OF RESTRICTIONS ON SOLICITATION. On motion of any party in interest or on its own initiative, the court may determine whether there has been a failure to comply with the provisions of this rule or any other impropriety in connection with the solicitation or voting of a proxy. After notice and a hearing the court may reject any proxy for cause, vacate any order entered in consequence of the voting of any proxy which should have been rejected, or take any other appropriate action.	**(f) Enforcing Restrictions on Soliciting Proxies.** On motion of a party in interest or on its own, the court may determine whether there has been a failure to comply with this Rule 2006 or any other impropriety related to soliciting or voting a proxy. After notice and a hearing, the court may: (1) reject a proxy for cause; (2) vacate an order entered because a proxy was voted that should have been rejected; or (3) take other appropriate action.

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Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case	**Rule 2007. Reviewing the Appointment of a Creditors' Committee Organized Before a Chapter 9 or 11 Case Is Commenced**
(a) MOTION TO REVIEW APPOINTMENT. If a committee appointed by the United States trustee pursuant to § 1102(a) of the Code consists of the members of a committee organized by creditors before the commencement of a chapter 9 or chapter 11 case, on motion of a party in interest and after a hearing on notice to the United States trustee and other entities as the court may direct, the court may determine whether the appointment of the committee satisfies the requirements of § 1102(b)(1) of the Code.	**(a) Motion to Review the Appointment.** If, in a Chapter 9 or 11 case, a committee appointed by the United States trustee under § 1102(a) consists of the members of a committee organized by creditors before the case commenced, the court may determine whether the committee's appointment satisfies the requirements of § 1102(b)(1). The court may do so on a party in interest's motion and after a hearing on notice to the United States trustee and other entities as the court orders.
(b) SELECTION OF MEMBERS OF COMMITTEE. The court may find that a committee organized by unsecured creditors before the commencement of a chapter 9 or chapter 11 case was fairly chosen if: (1) it was selected by a majority in number and amount of claims of unsecured creditors who may vote under § 702(a) of the Code and were present in person or represented at a meeting of which all creditors having unsecured claims of over $1,000 or the 100 unsecured creditors having the largest claims had at least seven days' notice in writing, and of which meeting written minutes reporting the names of the creditors present or represented and voting and the amounts of their claims were kept and are available for inspection; (2) all proxies voted at the meeting for the elected committee were solicited pursuant to Rule 2006 and the	**(b) Determining Whether the Committee Was Fairly Chosen.** The court may find that the committee was fairly chosen if: (1) it was selected by a majority in number and amount of claims of unsecured creditors who are entitled to vote under § 702(a) and who were present or represented at a meeting of which: (A) all creditors with unsecured claims of over $1,000 or the 100 unsecured creditors with the largest claims had at least 7 days' written notice; and (B) written minutes are available for inspection reporting the voting creditors' names and the amounts of their claims; (2) all proxies voted at the meeting were solicited under Rule 2006; (3) the lists and statements required by Rule 2006(e) have been sent to the United States trustee; and

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lists and statements required by subdivision (e) thereof have been transmitted to the United States trustee; and (3) the organization of the committee was in all other respects fair and proper.	(4) the committee's organization was in all other respects fair and proper.
(c) FAILURE TO COMPLY WITH REQUIREMENTS FOR APPOINTMENT. After a hearing on notice pursuant to subdivision (a) of this rule, the court shall direct the United States trustee to vacate the appointment of the committee and may order other appropriate action if the court finds that such appointment failed to satisfy the requirements of § 1102(b)(1) of the Code.	**(c) Failure to Comply with Appointment Requirements.** If, after a hearing on notice under (a), the court finds that a committee appointment fails to satisfy the requirements of § 1102(b)(1), it: (1) must order the United States trustee to vacate the appointment; and (2) may order other appropriate action.

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Rule 2007.1. Appointment of Trustee or Examiner in a Chapter 11 Reorganization Case	**Rule 2007.1. Appointing a Trustee or Examiner in a Chapter 11 Case**
(a) ORDER TO APPOINT TRUSTEE OR EXAMINER. In a chapter 11 reorganization case, a motion for an order to appoint a trustee or an examiner under § 1104(a) or § 1104(c) of the Code shall be made in accordance with Rule 9014.	**(a) In General.** In a Chapter 11 case, a motion to appoint a trustee or examiner under § 1104(a) or (c) must be made in accordance with Rule 9014.
(b) ELECTION OF TRUSTEE. (1) *Request for an Election.* A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Rule 5005 within the time prescribed by § 1104(b) of the Code. Pending court approval of the person elected, any person appointed by the United States trustee under § 1104(d) and approved in accordance with subdivision (c) of this rule shall serve as trustee. (2) *Manner of Election and Notice.* An election of a trustee under § 1104(b) of the Code shall be conducted in the manner provided in Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under § 1104(b) shall be given as provided in Rule 2002. The United States trustee shall preside at the meeting. A proxy for the purpose of voting in the election may be solicited only by a committee of creditors appointed under § 1102 of the Code or by any other party entitled to solicit a proxy pursuant to Rule 2006. (3) *Report of Election and Resolution of Disputes.* (A) *Report of Undisputed Election.* If no dispute arises out of the	**(b) Requesting the United States Trustee to Convene a Meeting of Creditors to Elect a Trustee.** **(1)** ***In General.*** A request to the United States trustee to convene a meeting of creditors to elect a trustee must be filed and sent to the United States trustee in accordance with Rule 5005 and within the time prescribed by § 1104(b). Pending court approval of the person elected, any person appointed by the United States trustee under § 1104(d) and approved under (c) below must serve as trustee. **(2)** ***Notice and Manner of Conducting the Election.*** A trustee's election under § 1104(b) must be conducted as Rules 2003(b)(3) and 2006 provide, and notice of the meeting of creditors must be given as Rule 2002 provides. The United States trustee must preside at the meeting. A proxy to vote in the election may be solicited only by a creditors' committee appointed under § 1102 or by another party entitled to solicit a proxy under Rule 2006. **(3)** ***Reporting Election Results; Resolving Disputes.*** (A) *Undisputed Election.* If the election is undisputed, the United States trustee must promptly file a report certifying the election, including

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election, the United States trustee shall promptly file a report certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report shall be accompanied by a verified statement of the person elected setting forth that person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. (B) *Dispute Arising Out of an Election.* If a dispute arises out of an election, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report shall be accompanied by a verified statement by each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code.	the name and address of the person elected and a statement that the election is undisputed. The report must be accompanied by a verified statement of the person elected setting forth that person's connections with: (i) the debtor; (ii) creditors; (iii) any other party in interest; (iv) their respective attorneys and accountants; (v) the United States trustee; or (vi) any person employed in the United States trustee's office. (B) *Disputed Election.* If the election is disputed, the United States trustee must promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report must be accompanied by a verified statement by each such candidate, setting forth the candidate's connections with any entity listed in (A). No later than the date on which the report of the disputed election is filed, the United States trustee must mail a copy of the report and each verified statement to: (i) any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report; and

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	(ii) any committee appointed under § 1102.
(c) APPROVAL OF APPOINTMENT. An order approving the appointment of a trustee or an examiner under § 1104(d) of the Code shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, or persons employed in the office of the United States trustee. The application shall state the names of the parties in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.	**(c) Approving an Appointment.** On application of the United States trustee, the court may approve a trustee's or examiner's appointment under § 1104(d). The application must: (1) name the person appointed and state, to the best of the applicant's knowledge, all that person's connections with any entity listed in (b)(3)(A); (2) state the names of the parties in interest with whom the United States trustee consulted about the appointment; and (3) be accompanied by a verified statement of the person appointed setting forth that person's connections with any entity listed in (b)(3)(A).

ORIGINAL	**REVISION**
Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case	**Rule 2007.2. Appointing a Patient-Care Ombudsman in a Health Care Business Case**
(a) ORDER TO APPOINT PATIENT CARE OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed no later than 21 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary under the specific circumstances of the case for the protection of patients.	**(a) In General.** In a Chapter 7, 9, or 11 case in which the debtor is a health care business, the court must order the appointment of a patient-care ombudsman under § 333—unless the court, on motion of the United States trustee or a party in interest, finds that appointing a patient-care ombudsman in that case is not necessary to protect patients. The motion must be filed within 21 days after the case was commenced or at another time set by the court.
(b) MOTION FOR ORDER TO APPOINT OMBUDSMAN. If the court has found that the appointment of an ombudsman is not necessary, or has terminated the appointment, the court, on motion of the United States trustee or a party in interest, may order the appointment at a later time if it finds that the appointment has become necessary to protect patients.	**(b) Deferred Appointment.** If the court has found that appointing an ombudsman is unnecessary, or has terminated the appointment, the court may, on motion of the United States trustee or a party in interest, order an appointment later if it finds that an appointment has become necessary to protect patients.
(c) NOTICE OF APPOINTMENT. If a patient care ombudsman is appointed under § 333, the United States trustee shall promptly file a notice of the appointment, including the name and address of the person appointed. Unless the person appointed is a State Long-Term Care Ombudsman, the notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, patients, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office	**(c) Giving Notice.** When a patient-care ombudsman is appointed under § 333, the United States trustee must promptly file a notice of the appointment, including the name and address of the person appointed. Unless that person is a State Long-Term-Care Ombudsman, the notice must be accompanied by a verified statement of the person appointed setting forth that person's connections with: (1) the debtor; (2) creditors; (3) patients;

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<tr><td>of the United States trustee.</td><td>(4) any other party in interest;
(5) their respective attorneys and accountants;
(6) the United States trustee; or
(7) any person employed in the United States trustee's office.</td></tr>
<tr><td>(d) TERMINATION OF APPOINTMENT. On motion of the United States trustee or a party in interest, the court may terminate the appointment of a patient care ombudsman if the court finds that the appointment is not necessary to protect patients.</td><td>(d) Terminating an Appointment. On motion of the United States trustee or a party in interest, the court may terminate a patient-care ombudsman's appointment that it finds to be unnecessary to protect patients.</td></tr>
<tr><td>(e) MOTION. A motion under this rule shall be governed by Rule 9014. The motion shall be transmitted to the United States trustee and served on: the debtor; the trustee; any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and such other entities as the court may direct.</td><td>(e) Procedure. Rule 9014 governs any motion under this Rule 2007.2. The motion must be sent to the United States trustee and served on:
• the debtor;
• the trustee;
• any committee elected under § 705 or appointed under § 1102, or its authorized agent; and
• any other entity as the court orders.
In a Chapter 9 or 11 case, if no committee of unsecured creditors has been appointed under § 1102, the motion must also be served on the creditors included on the list filed under Rule 1007(d).</td></tr>
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Rule 2008. Notice to Trustee of Selection	**Rule 2008. Notice to the Person Selected as Trustee**
The United States trustee shall immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond. A trustee that has filed a blanket bond pursuant to Rule 2010 and has been selected as trustee in a chapter 7, chapter 12, or chapter 13 case that does not notify the court and the United States trustee in writing of rejection of the office within seven days after receipt of notice of selection shall be deemed to have accepted the office. Any other person selected as trustee shall notify the court and the United States trustee in writing of acceptance of the office within seven days after receipt of notice of selection or shall be deemed to have rejected the office.	**(a) Giving Notice.** The United States trustee must immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond. **(b) Accepting the Position of Trustee.** **(1)** ***Trustee Who Has Filed a Blanket Bond.*** A trustee selected in a Chapter 7, 12, or 13 case who has filed a blanket bond under Rule 2010 may reject the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the trustee will be deemed to have accepted the office. **(2)** ***Other Trustees.*** Any other person selected as trustee may accept the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the person will be deemed to have rejected the office.

Original	**Revision**
Rule 2009. Trustees for Estates When Joint Administration Ordered	**Rule 2009. Trustees for Jointly Administered Estates**
(a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 of the Code.	**(a) Creditors' Right to Elect a Single Trustee.** Except in a case under Subchapter V of Chapter 7, if the court orders that 2 or more estates be jointly administered under Rule 1015(b), the creditors may elect a single trustee for those estates.
(b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code, unless the case is under subchapter V of chapter 7.	**(b) Creditors' Right to Elect a Separate Trustee.** Except in a case under Subchapter V of Chapter 7, any debtor's creditors may elect a separate trustee for the debtor's estate under § 702—even if the court orders joint administration under Rule 1015(b).
(c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED. (1) *Chapter 7 Liquidation Cases.* Except in a case governed by subchapter V of chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases. (2) *Chapter 11 Reorganization Cases.* If the appointment of a trustee is ordered, the United States trustee may appoint one or more trustees for estates being jointly administered in chapter 11 cases. (3) *Chapter 12 Family Farmer's Debt Adjustment Cases.* The United States trustee may appoint one or more trustees for estates being jointly administered in chapter 12 cases. (4) *Chapter 13 Individual's Debt*	**(c) United States Trustee's Right to Appoint Interim Trustees in Cases with Jointly Administered Estates.** **(1)** ***Chapter 7.*** Except in a case under Subchapter V of Chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in Chapter 7. **(2)** ***Chapter 11.*** If the court orders the appointment of a trustee, the United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 11. **(3)** ***Chapter 12 or 13.*** The United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 12 or 13.

Original	**Revision**
Adjustment Cases. The United States trustee may appoint one or more trustees for estates being jointly administered in chapter 13 cases.	
(d) POTENTIAL CONFLICTS OF INTEREST. On a showing that creditors or equity security holders of the different estates will be prejudiced by conflicts of interest of a common trustee who has been elected or appointed, the court shall order the selection of separate trustees for estates being jointly administered.	**(d) Conflicts of Interest.** On a showing that a common trustee's conflicts of interest will prejudice creditors or equity security holders of jointly administered estates, the court must order the selection of separate trustees for the estates.
(e) SEPARATE ACCOUNTS. The trustee or trustees of estates being jointly administered shall keep separate accounts of the property and distribution of each estate.	**(e) Keeping Separate Accounts.** A trustee of jointly administered estates must keep separate accounts of each estate's property and distribution.

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Rule 2010. Qualification by Trustee; Proceeding on Bond	**Rule 2010. Blanket Bond; Proceedings on the Bond**
(a) BLANKET BOND. The United States trustee may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by the trustee or trustees to cover (1) a person who qualifies as trustee in a number of cases, and (2) a number of trustees each of whom qualifies in a different case.	**(a) Authorizing a Blanket Bond.** The United States trustee may authorize a blanket bond in the United States' favor, conditioned on the faithful performance of a trustee's official duties to cover: (1) a person who qualifies as trustee in a number of cases; or (2) multiple trustees who each qualifies in a different case.
(b) PROCEEDING ON BOND. A proceeding on the trustee's bond may be brought by any party in interest in the name of the United States for the use of the entity injured by the breach of the condition.	**(b) Proceedings on the Bond.** A party in interest may bring a proceeding in the name of the United States on a trustee's bond for the use of the entity injured by the trustee's breach of the condition.

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Rule 2011. Evidence of Debtor in Possession or Qualification of Trustee	**Rule 2011. Evidence That a Debtor Is a Debtor in Possession or That a Trustee Has Qualified**
(a) Whenever evidence is required that a debtor is a debtor in possession or that a trustee has qualified, the clerk may so certify and the certificate shall constitute conclusive evidence of that fact.	**(a) The Clerk's Certification.** Whenever evidence is required that a debtor is a debtor in possession or that a trustee has qualified, the clerk may issue a certificate to that effect. The certification constitutes conclusive evidence of that fact.
(b) If a person elected or appointed as trustee does not qualify within the time prescribed by § 322(a) of the Code, the clerk shall so notify the court and the United States trustee.	**(b) Trustee's Failure to Qualify.** If a person elected or appointed as trustee does not qualify within the time prescribed by § 322(a), the clerk must so notify the court and the United States trustee.

ORIGINAL	REVISION
Rule 2012. Substitution of Trustee or Successor Trustee; Accounting	**Rule 2012. Substituting a Trustee in a Chapter 11 or 12 Case; Successor Trustee in a Pending Proceeding**
(a) TRUSTEE. If a trustee is appointed in a chapter 11 case or the debtor is removed as debtor in possession in a chapter 12 case, the trustee is substituted automatically for the debtor in possession as a party in any pending action, proceeding, or matter.	**(a) Substituting a Trustee.** If a trustee is appointed in a Chapter 11 case or the debtor is removed as debtor in possession in a Chapter 12 case, the trustee is automatically substituted for the debtor in possession as a party in any pending action, proceeding, or matter.
(b) SUCCESSOR TRUSTEE. When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a case under the Code (1) the successor is automatically substituted as a party in any pending action, proceeding, or matter; and (2) the successor trustee shall prepare, file, and transmit to the United States trustee an accounting of the prior administration of the estate.	**(b) Successor Trustee.** When a trustee dies, resigns, is removed, or otherwise ceases to hold office while a bankruptcy case is pending, the successor trustee is automatically substituted as a party in any pending action, proceeding, or matter. The successor trustee must prepare, file, and send to the United States trustee an accounting of the estate's prior administration.

ORIGINAL	REVISION
Rule 2013. Public Record of Compensation Awarded to Trustees, Examiners, and Professionals	**Rule 2013. Keeping a Public Record of Compensation Awarded by the Court to Examiners, Trustees, and Professionals**
(a) RECORD TO BE KEPT. The clerk shall maintain a public record listing fees awarded by the court (1) to trustees and attorneys, accountants, appraisers, auctioneers and other professionals employed by trustees, and (2) to examiners. The record shall include the name and docket number of the case, the name of the individual or firm receiving the fee and the amount of the fee awarded. The record shall be maintained chronologically and shall be kept current and open to examination by the public without charge. "Trustees," as used in this rule, does not include debtors in possession.	**(a) In General.** The clerk must keep a public record of fees the court awards to examiners and trustees, and to attorneys, accountants, appraisers, auctioneers, and other professionals that trustees employ. The record must include the case name and docket number, the name of the individual or firm receiving the fee, and the amount awarded. The record must be maintained chronologically and be kept current and open for public examination without charge. "Trustee," as used in this Rule 2013, does not include a debtor in possession.
(b) SUMMARY OF RECORD. At the close of each annual period, the clerk shall prepare a summary of the public record by individual or firm name, to reflect total fees awarded during the preceding year. The summary shall be open to examination by the public without charge. The clerk shall transmit a copy of the summary to the United States trustee.	**(b) Annual Summary of the Record.** At the end of each year, the clerk must prepare a summary of the public record, by individual or firm name, showing the total fees awarded during the year. The summary must be open for public examination without charge. The clerk must send a copy of the summary to the United States trustee.

ORIGINAL	**REVISION**
Rule 2014. Employment of Professional Persons	**Rule 2014. Employing Professionals**
(a) APPLICATION FOR AND ORDER OF EMPLOYMENT. An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.	**(a) Order Approving Employment; Application for Employment.** **(1)** ***Order Approving Employment.*** The court may approve the employment of an attorney, accountant, appraiser, auctioneer, agent, or other professional under § 327, § 1103, or § 1114 only on the trustee's or committee's application. **(2)** ***Application for Employment.*** The applicant must file the application and, except in a Chapter 9 case, must send a copy to the United States trustee. The application must state specific facts showing: (A) the necessity for the employment; (B) the name of the person to be employed; (C) the reasons for the selection; (D) the professional services to be rendered; (E) any proposed arrangement for compensation; and (F) to the best of the applicant's knowledge, all the person's connections with: • the debtor; • creditors; • any other party in interest; • their respective attorneys and accountants; • the United States trustee; and • any person employed in the United States trustee's office.

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	(3) ***Verified Statement.*** The application must be accompanied by a verified statement of the person to be employed, setting forth that person's connections with any entity listed in (2)(F).
(b) SERVICES RENDERED BY MEMBER OR ASSOCIATE OF FIRM OF ATTORNEYS OR ACCOUNTANTS. If, under the Code and this rule, a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant, or if a named attorney or accountant is employed, any partner, member, or regular associate of the partnership, corporation, or individual may act as attorney or accountant so employed, without further order of the court.	**(b) Services Rendered by a Member or Associate of a Law or Accounting Firm.** If a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant—or if a named attorney or accountant is employed—then any partner, member, or regular associate may act as so employed, without further court order.

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<tr><td>Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status</td><td>Rule 2015. Duty to Keep Records, Make Reports, and Give Notices</td></tr>
<tr><td>(a) TRUSTEE OR DEBTOR IN POSSESSION. A trustee or debtor in possession shall:

(1) in a chapter 7 liquidation case and, if the court directs, in a chapter 11 reorganization case file and transmit to the United States trustee a complete inventory of the property of the debtor within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;

(2) keep a record of receipts and the disposition of money and property received;

(3) file the reports and summaries required by § 704(a)(8) of the Code, which shall include a statement, if payments are made to employees, of the amounts of deductions for all taxes required to be withheld or paid for and in behalf of employees and the place where these amounts are deposited;

(4) as soon as possible after the commencement of the case, give notice of the case to every entity known to be holding money or property subject to withdrawal or order of the debtor, including every bank, savings or building and loan association, public utility company, and landlord with whom the debtor has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the debtor, except that notice need not be given to any entity who has knowledge or has previously been notified of the case;

(5) in a chapter 11 reorganization case, on or before the last day of the month after each calendar quarter</td><td>(a) Duties of a Trustee or Debtor in Possession. A trustee or debtor in possession must:

(1) in a Chapter 7 case and, if the court so orders, in a Chapter 11 case, file and send to the United States trustee a complete inventory of the debtor's property within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;

(2) keep a record of receipts and the disposition of money and property received;

(3) file:

(A) the reports and summaries required by § 704(a)(8); and

(B) if payments are made to employees, a statement of the amounts of deductions for all taxes required to be withheld or paid on the employees' behalf and the place where these funds are deposited;

(4) give notice of the case, as soon as possible after it commences, to the following entities, except those who know or have previously been notified of the case:

(A) every entity known to be holding money or property subject to the debtor's withdrawal or order, including every bank, savings- or building-and-loan association, public utility company, and</td></tr>
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during which there is a duty to pay fees under 28 U.S.C. § 1930(a)(6), file and transmit to the United States trustee a statement of any disbursements made during that quarter and of any fees payable under 28 U.S.C. § 1930(a)(6) for that quarter; and (6) in a chapter 11 small business case, unless the court, for cause, sets another reporting interval, file and transmit to the United States trustee for each calendar month after the order for relief, on the appropriate Official Form, the report required by § 308. If the order for relief is within the first 15 days of a calendar month, a report shall be filed for the portion of the month that follows the order for relief. If the order for relief is after the 15th day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month. Each report shall be filed no later than 21 days after the last day of the calendar month following the month covered by the report. The obligation to file reports under this subparagraph terminates on the effective date of the plan, or conversion or dismissal of the case.	landlord with whom the debtor has a deposit; and (B) every insurance company that has issued a policy with a cash-surrender value payable to the debtor; (5) in a Chapter 11 case, on or before the last day of the month after each calendar quarter during which fees must be paid under 28 U.S.C. § 1930(a)(6), file and send to the United States trustee a statement of those fees and any disbursements made during that quarter; and (6) in a Chapter 11 small business case, unless the court, for cause, sets a different schedule, file and send to the United States trustee a report under § 308, using Form 425C, for each calendar month after the order for relief on the following schedule: • If the order for relief is within the first 15 days of a calendar month, the report must be filed for the rest of that month. • If the order for relief is after the 15th, the information for the rest of that month must be included in the report for the next calendar month. Each report must be filed within 21 days after the last day of the month following the month that the report covers. The obligation to file reports ends on the date that the plan becomes effective or the case is converted or dismissed.
(b) CHAPTER 12 TRUSTEE AND DEBTOR IN POSSESSION. In a chapter 12 family farmer's debt adjustment case, the debtor in	**(b) Duties of a Chapter 12 Trustee or Debtor in Possession.** In a Chapter 12 case, the debtor in possession must perform the duties prescribed in (a)(2)–(4)

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possession shall perform the duties prescribed in clauses (2)–(4) of subdivision (a) of this rule and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the property of the debtor within the time fixed by the court. If the debtor is removed as debtor in possession, the trustee shall perform the duties of the debtor in possession prescribed in this paragraph.	and, if the court orders, file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets. If the debtor is removed as debtor in possession, the trustee must perform these duties.
(c) CHAPTER 13 TRUSTEE AND DEBTOR. (1) Business Cases. In a chapter 13 individual's debt adjustment case, when the debtor is engaged in business, the debtor shall perform the duties prescribed by clauses (2)–(4) of subdivision (a) of this rule and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the property of the debtor within the time fixed by the court.(2) Nonbusiness Cases. In a chapter 13 individual's debt adjustment case, when the debtor is not engaged in business, the trustee shall perform the duties prescribed by clause (2) of subdivision (a) of this rule.	**(c) Duties of a Chapter 13 Trustee and Debtor.** **(1)** ***Chapter 13 Business Case.*** In a Chapter 13 case, a debtor engaged in business must: (A) perform the duties prescribed by (a)(2)–(4); and (B) if the court so orders, file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets. **(2)** ***Other Chapter 13 Case.*** In a Chapter 13 case in which the debtor is not engaged in business, the trustee must perform the duties prescribed by (a)(2).
(d) FOREIGN REPRESENTATIVE. In a case in which the court has granted recognition of a foreign proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 14 days after the date when the representative becomes aware of the subsequent information.	**(d) Duties of a Chapter 15 Foreign Representative.** In a Chapter 15 case in which the court has granted recognition of a foreign proceeding, the foreign representative must file any notice required under § 1518 within 14 days after becoming aware of the subsequent information.
(e) TRANSMISSION OF REPORTS. In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of	**(e) Making Reports Available in a Chapter 11 Case.** In a Chapter 11 case, the court may order that copies or summaries of annual reports and other reports be

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other reports shall be mailed to the creditors, equity security holders, and indenture trustees. The court may also direct the publication of summaries of any such reports. A copy of every report or summary mailed or published pursuant to this subdivision shall be transmitted to the United States trustee.	mailed to creditors, equity security holders, and indenture trustees. The court may also order that summaries of these reports be published. A copy of every such report or summary, whether mailed or published, must be sent to the United States trustee.

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Rule 2015.1. Patient Care Ombudsman	**Rule 2015.1. Patient-Care Ombudsman**
(a) REPORTS. A patient care ombudsman, at least 14 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court, unless the court orders otherwise. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on: the debtor; the trustee; all patients; and any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and, if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense.	**(a) Notice of the Report.** Unless the court orders otherwise, a patient-care ombudsman must give at least 14 days' notice before making a report under § 333(b)(2). **(1)** ***Recipients of the Notice.*** The notice must be sent to the United States trustee, posted conspicuously at the healthcare facility that is the report's subject, and served on: • the debtor; • the trustee; • all patients; • any committee elected under § 705 or appointed under § 1102 or its authorized agent; • in a Chapter 9 or 11 case, the creditors on the list filed under Rule 1007(d) if no committee of unsecured creditors has been appointed under § 1102; and • any other entity as the court orders. **(2)** ***Contents of the Notice.*** The notice must state: (A) the date and time when the report will be made; (B) the manner in which it will be made; and (C) if it will be written, the name, address, telephone number, email address, and any website of the person from whom a copy may be obtained at the debtor's expense.

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(b) AUTHORIZATION TO REVIEW CONFIDENTIAL PATIENT RECORDS. A motion by a patient care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may not be commenced earlier than 14 days after service of the motion.	**(b) Authorization to Review Confidential Patient Records.** **(1)** ***Motion to Review; Service.*** A patient-care ombudsman's motion under § 333(c) to review confidential patient records is governed by Rule 9014. The motion must: (A) be served on the patient; (B) be served on any family member or other contact person whose name and address have been given to the trustee or the debtor to provide information about the patient's healthcare; and (C) be sent to the United States trustee, subject to applicable nonbankruptcy law relating to patient privacy. **(2)** ***Time for a Hearing***. Unless the court orders otherwise, a hearing on the motion may not commence earlier than 14 days after the motion is served.

Original	Revision
Rule 2015.2. Transfer of Patient in Health Care Business Case	**Rule 2015.2. Transferring a Patient in a Health Care Business Case**
Unless the court orders otherwise, if the debtor is a health care business, the trustee may not transfer a patient to another health care business under § 704(a)(12) of the Code unless the trustee gives at least 14 days' notice of the transfer to the patient care ombudsman, if any, the patient, and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care. The notice is subject to applicable nonbankruptcy law relating to patient privacy.	Unless the court orders otherwise, if the debtor is a health care business, the trustee may transfer a patient to another health care business under § 704(a)(12) only if the trustee gives at least 14 days' notice of the transfer to: • any patient-care ombudsman; • the patient; and • any family member or other contact person whose name and address have been given to the trustee or the debtor to provide information about the patient's healthcare. The notice is subject to applicable nonbankruptcy law concerning patient privacy.

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Rule 2015.3. Reports of Financial Information on Entities in Which a Chapter 11 Estate Holds a Controlling or Substantial Interest	**Rule 2015.3. Reporting Financial Information About Entities in Which a Chapter 11 Estate Holds a Substantial or Controlling Interest**
(a) REPORTING REQUIREMENT. In a chapter 11 case, the trustee or debtor in possession shall file periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest. The reports shall be prepared as prescribed by the appropriate Official Form, and shall be based upon the most recent information reasonably available to the trustee or debtor in possession.	**(a) Reporting Requirement; Contents of the Report.** In a Chapter 11 case, the trustee or debtor in possession must file periodic financial reports of the value, operations, and profitability of each entity in which the estate holds a substantial or controlling interest—unless the entity is a publicly traded corporation or a debtor in a bankruptcy case. The reports must be prepared as prescribed by Form 426 and be based on the most recent information reasonably available to the filer.
(b) TIME FOR FILING; SERVICE. The first report required by this rule shall be filed no later than seven days before the first date set for the meeting of creditors under § 341 of the Code. Subsequent reports shall be filed no less frequently than every six months thereafter, until the effective date of a plan or the case is dismissed or converted. Copies of the report shall be served on the United States trustee, any committee appointed under § 1102 of the Code, and any other party in interest that has filed a request therefor.	**(b) Time to File; Service.** The first report must be filed at least 7 days before the first date set for the meeting of creditors under § 341. Later reports must be filed at least every 6 months, until the date the plan becomes effective or the case is converted or dismissed. A copy of each report must be served on the United States trustee, any committee appointed under § 1102, and any other party in interest that has filed a request for it.
(c) PRESUMPTION OF SUBSTANTIAL OR CONTROLLING INTEREST; JUDICIAL DETERMINATION. For purposes of this rule, an entity of which the estate controls or owns at least a 20 percent interest, shall be presumed to be an entity in which the estate has a substantial or controlling interest. An entity in which the estate controls or owns less than a 20 percent interest shall	**(c) Presumption of a Substantial or Controlling Interest.** **(1)** ***When a Presumption Applies.*** Under this Rule 2015.3, the estate is presumed to have a substantial or controlling interest in an entity of which it controls or owns at least a 20% interest. Otherwise, the estate is presumed not to have a substantial or controlling interest.

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be presumed not to be an entity in which the estate has a substantial or controlling interest. Upon motion, the entity, any holder of an interest therein, the United States trustee, or any other party in interest may seek to rebut either presumption, and the court shall, after notice and a hearing, determine whether the estate's interest in the entity is substantial or controlling.	**(2)** ***Rebutting the Presumption.*** The entity, any holder of an interest in it, the United States trustee, or any other party in interest may move to rebut either presumption. After notice and a hearing, the court must determine whether the estate's interest in the entity is substantial or controlling.
(d) MODIFICATION OF REPORTING REQUIREMENT. The court may, after notice and a hearing, vary the reporting requirement established by subdivision (a) of this rule for cause, including that the trustee or debtor in possession is not able, after a good faith effort, to comply with those reporting requirements, or that the information required by subdivision (a) is publicly available.	**(d) Modifying the Reporting Requirement.** After notice and a hearing, the court may vary the reporting requirements of (a) for cause, including that: (1) the trustee or debtor in possession is not able, after a good-faith effort, to comply with them; or (2) the required information is publicly available.
(e) NOTICE AND PROTECTIVE ORDERS. No later than 14 days before filing the first report required by this rule, the trustee or debtor in possession shall send notice to the entity in which the estate has a substantial or controlling interest, and to all holders—known to the trustee or debtor in possession—of an interest in that entity, that the trustee or debtor in possession expects to file and serve financial information relating to the entity in accordance with this rule. The entity in which the estate has a substantial or controlling interest, or a person holding an interest in that entity, may request protection of the information under § 107 of the Code.	**(e) Notice to Entities in Which the Estate has a Substantial or Controlling Interest; Protective Order.** At least 14 days before filing the first report under (a), the trustee or debtor in possession must send notice to every entity in which the estate has a substantial or controlling interest—and all known holders of an interest in the entity—that the trustee or debtor in possession expects to file and serve financial information about the entity in accordance with this Rule 2015.3. Any such entity, or person holding an interest in it, may request that the information be protected under § 107.
(f) EFFECT OF REQUEST. Unless the court orders otherwise, the pendency of a request under subdivisions (c), (d), or (e) of this rule shall not alter or stay the	**(f) Effect of a Request.** Unless the court orders otherwise, a pending request under (c), (d), or (e) does not alter or stay the requirements of (a).

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requirements of subdivision (a).	

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Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses	**Rule 2016. Compensation for Services Rendered; Reimbursing Expenses**
(a) APPLICATION FOR COMPENSATION OR REIMBURSEMENT. An entity seeking interim or final compensation for services, or reimbursement of necessary expenses, from the estate shall file an application setting forth a detailed statement of (1) the services rendered, time expended and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement as to what payments have theretofore been made or promised to the applicant for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation previously received has been shared and whether an agreement or understanding exists between the applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any sharing of compensation or agreement or understanding therefor, except that details of any agreement by the applicant for the sharing of compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other entity. Unless the case is a chapter 9 municipality case, the applicant shall transmit to the United States trustee a copy of the application.	**(a) In General.** (1) ***Application.*** An entity seeking from the estate interim or final compensation for services or reimbursement of necessary expenses must file an application showing: (A) in detail the amounts requested and the services rendered, time expended, and expenses incurred; (B) all payments previously made or promised for services rendered or to be rendered in connection with the case; (C) the source of the paid or promised compensation; (D) whether any previous compensation has been shared and whether an agreement or understanding exists between the applicant and any other entity for sharing compensation for services rendered or to be rendered in connection with the case; and (E) the particulars of any compensation sharing or agreement or understanding to share, except by the applicant as a member or regular associate of a law or accounting firm. (2) ***Application for Services Rendered or to be Rendered by Attorney or Accountant.*** The requirements of (a) apply to an application for compensation for services rendered by an attorney or accountant, even though a creditor or other entity files the application.

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	(3) ***Copy to United States Trustee.*** Except in a Chapter 9 case, the applicant must send a copy of the application to the United States trustee.
(b) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO ATTORNEY FOR DEBTOR. Every attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief, or at another time as the court may direct, the statement required by § 329 of the Code including whether the attorney has shared or agreed to share the compensation with any other entity. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of the compensation with a member or regular associate of the attorney's law firm shall not be required. A supplemental statement shall be filed and transmitted to the United States trustee within 14 days after any payment or agreement not previously disclosed.	**(b) Disclosing Compensation Paid or Promised to the Debtor's Attorney.** Within 14 days after the order for relief—or at another time as the court orders—every debtor's attorney (whether or not applying for compensation) must file and send to the United States trustee the statement required by § 329. The statement must show whether the attorney has shared or agreed to share compensation with any other entity and, if so, the particulars of any sharing or agreement to share, except with a member or regular associate of the attorney's law firm. Within 14 days after any payment or agreement to pay not previously disclosed, the attorney must file and send to the United States trustee a supplemental statement.
(c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Before a petition is filed, every bankruptcy petition preparer for a debtor shall deliver to the debtor, the declaration under penalty of perjury required by § 110(h)(2). The declaration shall disclose any fee, and the source of any fee, received from or on behalf of the debtor within 12 months of the filing of the case and all unpaid fees charged to the debtor. The declaration shall also describe the services performed and	**(c) Disclosing Compensation Paid or Promised to a Bankruptcy Petition Preparer.** (1) ***Basic Requirements.*** Before a petition is filed, every bankruptcy petition preparer for a debtor must deliver to the debtor the declaration under penalty of perjury required by § 110(h)(2). The declaration must: (A) disclose any fee, and its source, received from or on behalf of the debtor within 12 months before the petition's filing, together with

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documents prepared or caused to be prepared by the bankruptcy petition preparer. The declaration shall be filed with the petition. The petition preparer shall file a supplemental statement within 14 days after any payment or agreement not previously disclosed.	all unpaid fees charged to the debtor; (B) describe the services performed and the documents prepared or caused to be prepared by the bankruptcy petition preparer; and (C) be filed with the petition. (2) ***Supplemental Statement.*** Within 14 days after any later payment or agreement to pay not previously disclosed, the bankruptcy petition preparer must file a supplemental statement.

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Rule 2017. Examination of Debtor's Transactions with Debtor's Attorney	**Rule 2017. Examining Transactions Between a Debtor and the Debtor's Attorney**
(a) PAYMENT OR TRANSFER TO ATTORNEY BEFORE ORDER FOR RELIEF. On motion by any party in interest or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Code by or against the debtor or before entry of the order for relief in an involuntary case, to an attorney for services rendered or to be rendered is excessive.	**(a) Payments or Transfers to an Attorney Made Before the Order for Relief.** On motion of a party in interest, or on its own, the court may, after notice and a hearing, determine whether a debtor's direct or indirect payment of money or transfer of property to an attorney for services rendered or to be rendered was excessive if it was made: (1) in contemplation of the filing of a bankruptcy petition by or against the debtor, or (2) before the order for relief is entered in an involuntary case.
(b) PAYMENT OR TRANSFER TO ATTORNEY AFTER ORDER FOR RELIEF. On motion by the debtor, the United States trustee, or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after entry of an order for relief in a case under the Code is excessive, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to the case.	**(b) Payments or Transfers to an Attorney Made After the Order for Relief Is Entered.** On motion of the debtor or the United States trustee, or on its own, the court may, after notice and a hearing, determine whether a debtor's payment of money or transfer of property—or agreement to pay money or transfer property—to an attorney after an order for relief is entered is excessive. It does not matter for the determination whether the payment or transfer is made, or to be made, direct or indirect, if the payment, transfer, or agreement is for services related to the case.

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Rule 2018. Intervention; Right to Be Heard	**Rule 2018. Intervention by an Interested Entity; Right to Be Heard**
(a) PERMISSIVE INTERVENTION. In a case under the Code, after hearing on such notice as the court directs and for cause shown, the court may permit any interested entity to intervene generally or with respect to any specified matter.	**(a) In General.** After hearing on such notice as the court orders and for cause, the court may permit an interested entity to intervene generally or regarding any specified matter.
(b) INTERVENTION BY ATTORNEY GENERAL OF A STATE. In a chapter 7, 11, 12, or 13 case, the Attorney General of a State may appear and be heard on behalf of consumer creditors if the court determines the appearance is in the public interest, but the Attorney General may not appeal from any judgment, order, or decree in the case.	**(b) Intervention by a State Attorney General.** In a Chapter 7, 11, 12, or 13 case, a state attorney general may appear and be heard on behalf of consumer creditors if the court determines that the appearance is in the public interest. But the state attorney general may not appeal from any judgment, order, or decree entered in the case.
(c) CHAPTER 9 MUNICIPALITY CASE. The Secretary of the Treasury of the United States may, or if requested by the court shall, intervene in a chapter 9 case. Representatives of the state in which the debtor is located may intervene in a chapter 9 case with respect to matters specified by the court.	**(c) Intervention by the United States Secretary of the Treasury or a State Representative.** In a Chapter 9 case: (1) the United States Secretary of the Treasury may—and if requested by the court must—intervene; and (2) a representative of the state where the debtor is located may intervene on matters the court specifies.
(d) LABOR UNIONS. In a chapter 9, 11, or 12 case, a labor union or employees' association, representative of employees of the debtor, shall have the right to be heard on the economic soundness of a plan affecting the interests of the employees. A labor union or employees' association which exercises its right to be heard under this subdivision shall not be entitled to appeal any judgment, order, or decree relating to the plan, unless otherwise permitted by law.	**(d) Intervention by a Labor Union or an Association Representing the Debtor's Employees.** In a Chapter 9, 11, or 12 case, a labor union or an association representing the debtor's employees has the right to be heard on the economic soundness of a plan affecting the employees' interests. Unless otherwise permitted by law, the labor union or employees' association may not appeal any judgment, order, or decree related to the plan.

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(e) SERVICE ON ENTITIES COVERED BY THIS RULE. The court may enter orders governing the service of notice and papers on entities permitted to intervene or be heard pursuant to this rule.	**(e) Serving Entities Covered by This Rule.** The court may issue orders governing the service of notice and papers on entities permitted to intervene or be heard under this Rule 2018.

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Rule 2019. Disclosure Regarding Creditors and Equity Security Holders in Chapter 9 and Chapter 11 Cases	**Rule 2019. Disclosures by Groups, Committees, and Other Entities in a Chapter 9 or 11 Case**
(a) DEFINITIONS. In this rule the following terms have the meanings indicated: (1) "Disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or any other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest. (2) "Represent" or "represents" means to take a position before the court or to solicit votes regarding the confirmation of a plan on behalf of another.	**(a) Definitions.** In this Rule 2019: (1) "disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest; and (2) "represent" or "represents" means to take a position before the court or to solicit votes regarding a plan's confirmation on another's behalf.
(b) DISCLOSURE BY GROUPS, COMMITTEES, AND ENTITIES. (1) In a chapter 9 or 11 case, a verified statement setting forth the information specified in subdivision (c) of this rule shall be filed by every group or committee that consists of or represents, and every entity that represents, multiple creditors or equity security holders that are (A) acting in concert to advance their common interests, and (B) not composed entirely of affiliates or insiders of one another. (2) Unless the court orders otherwise, an entity is not required to file the verified statement described in paragraph (1) of this subdivision solely because of its status as: (A) an indenture trustee; (B) an agent for one or more other entities under an agreement	**(b) Who Must Disclose.** **(1)** ***In General.*** In a Chapter 9 or 11 case, a verified statement containing the information listed in (c) must be filed by every group or committee consisting of or representing, and every entity representing, multiple creditors or equity security holders that are: (A) acting in concert to advance their common interests; and (B) not composed entirely of affiliates or insiders of one another. **(2)** ***When a Disclosure Statement Is Not Required.*** Unless the court orders otherwise, an entity need not file the statement described in (1) solely because it is: (A) an indenture trustee;

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for the extension of credit; (C) a class action representative; or (D) a governmental unit that is not a person.	(B) an agent for one or more other entities under an agreement to extend credit; (C) a class-action representative; or (D) a governmental unit that is not a person.
(c) INFORMATION REQUIRED. The verified statement shall include: (1) the pertinent facts and circumstances concerning: (A) with respect to a group or committee, other than a committee appointed under § 1102 or § 1114 of the Code, the formation of the group or committee, including the name of each entity at whose instance the group or committee was formed or for whom the group or committee has agreed to act; or (B) with respect to an entity, the employment of the entity, including the name of each creditor or equity security holder at whose instance the employment was arranged; (2) if not disclosed under subdivision (c)(1), with respect to an entity, and with respect to each member of a group or committee: (A) name and address; (B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date the entity was employed or the group or committee was formed; and (C) with respect to each member of a group or committee that claims to represent any entity in addition to the members of the group or committee, other than a committee	**(c) Required Information.** The verified statement must include: (1) the pertinent facts and circumstances concerning: (A) for a group or committee (except a committee appointed under § 1102 or § 1114), its formation, including the name of each entity at whose instance it was formed or for whom it has agreed to act; or (B) for an entity, the entity's employment, including the name of each creditor or equity security holder at whose instance the employment was arranged; (2) if not disclosed under (1), for each member of a group or committee and for an entity: (A) name and address; (B) the nature and amount of each disclosable economic interest held in relation to the debtor when the group or committee was formed or the entity was employed; and (C) for each member of a group or committee claiming to represent any entity in addition to its own members (except a committee appointed under § 1102 or § 1114), the quarter and year in which each disclosable economic interest was acquired—unless it was acquired more than 1 year before the petition was filed;

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appointed under § 1102 or § 1114 of the Code, the date of acquisition by quarter and year of each disclosable economic interest, unless acquired more than one year before the petition was filed; (3) if not disclosed under subdivision (c)(1) or (c)(2), with respect to each creditor or equity security holder represented by an entity, group, or committee, other than a committee appointed under § 1102 or § 1114 of the Code: (A) name and address; and (B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date of the statement; and (4) a copy of the instrument, if any, authorizing the entity, group, or committee to act on behalf of creditors or equity security holders.	(3) if not disclosed under (1) or (2), for each creditor or equity security holder represented by an entity, group, or committee (except a committee appointed under § 1102 or § 1114): (A) name and address; and (B) the nature and amount of each disclosable economic interest held in relation to the debtor on the statement's date; and (4) a copy of any instrument authorizing the group, committee, or entity to act on behalf of creditors or equity security holders.
(d) SUPPLEMENTAL STATEMENTS. If any fact disclosed in its most recently filed statement has changed materially, an entity, group, or committee shall file a verified supplemental statement whenever it takes a position before the court or solicits votes on the confirmation of a plan. The supplemental statement shall set forth the material changes in the facts required by subdivision (c) to be disclosed.	**(d) Supplemental Statements.** If a fact disclosed in its most recent statement has changed materially, a group, committee, or entity must file a verified supplemental statement whenever it takes a position before the court or solicits votes on a plan's confirmation. The supplemental statement must set forth any material changes in the information specified in (c).
(e) DETERMINATION OF FAILURE TO COMPLY; SANCTIONS. (1) On motion of any party in interest, or on its own motion, the court may determine whether there has been a failure to comply with any provision of this rule.	**(e) Failure to Comply; Sanctions.** **(1)** ***Failure to Comply.*** On a party in interest's motion, or on its own, the court may determine whether there has been a failure to comply with this Rule 2019.

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(2) If the court finds such a failure to comply, it may: (A) refuse to permit the entity, group, or committee to be heard or to intervene in the case; (B) hold invalid any authority, acceptance, rejection, or objection given, procured, or received by the entity, group, or committee; or (C) grant other appropriate relief.	**(2)** ***Sanctions.*** If the court finds a failure to comply, it may: (A) refuse to permit the group, committee, or entity to be heard or to intervene in the case; (B) hold invalid any authority, acceptance, rejection, or objection that the group, committee, or entity has given, procured, or received; or (C) grant other appropriate relief.

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Rule 2020. Review of Acts by United States Trustee	**Rule 2020. Reviewing an Act by a United States Trustee**
A proceeding to contest any act or failure to act by the United States trustee is governed by Rule 9014.	A proceeding to contest any act or failure to act by a United States trustee is governed by Rule 9014.

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MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 19-BK-I and 19-BK-K – DSO Certification for Deceased Debtor

DATE: Mar. 6, 2020

Judge Goldgar identified a problem created by Section 1328(a), which conditions a chapter 13 discharge on the debtor having "certifie[d] that all amounts payable under [an order to pay a domestic support obligation "DSO"] that are due on or before the date of the certification . ... have been paid." It is not clear how this requirement should be handled if the debtor (or one of two joint debtors) has died since filing the chapter 13 case.

Judge Goldgar notes that he often sees motions asking to have dead co-debtors exempted from the requirement to provide a DSO certification, but will not grant them because he finds no statutory basis for doing so. He wonders if there is any rule-based analysis that would permit someone other than the deceased debtor to provide the required certification, or whether this would require a legislative change.

Following up on Judge Goldgar's suggestion, George Weiss of Maryland suggested that there might be a rule-based solution to the problem under Rule 9010(a). That Rule authorizes a debtor (among other parties) to "perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy." He suggested amending the Rule to "specifically indicate that in the case of a deceased debtor who has an open estate, a personal representative and/or executory may act on his behalf in signing paperwork and making certifications, and, in the case of a deceased debtor without an active personal representative and/or executor, a person may sign paperwork and make certifications for the debtor who has a) an interest in the case and b) made a showing of knowledge of the facts so certified." He also suggested that the Rule be updated to preclude an agent, attorney in fact or proxy from acting for the debtor with respect to credit counseling and financial management courses.

Discussion

Federal Rule of Bankruptcy Procedure 1016 provides express guidance on administration of a bankruptcy case for a deceased debtor. In a chapter 13 case, "the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred."

The issue raised by Judge Goldgar is presented when someone seeks a discharge in a chapter 13 case filed by a debtor who is now deceased. There are many examples of courts granting discharges to a deceased chapter 13 debtor. *See, e.g., In re* Shorter, 544 B.R. 654

(Bankr. E.D. Ark. 2015); *In re* Conn, 2015 WL 3777958 (Bankr. N.D. Ohio June 12, 2015); *In re* Hoover, 2015 WL 1407241 (Bankr. N.D. Cal. Mar. 24, 2015); *In re* Kosinski, 2015 WL 1177691 (Bankr. N.D. Ill. Mar. 5, 2015); *In re* Ferguson, 2015 WL 4131596 (Bankr. D. Colo. Feb. 24, 2015); *In re* Dickerson, 2012 WL 734160 (Bankr. N.D. Ohio Mar. 6, 2012); *In re* RedWine, 2011 WL 1116783 (Bankr. N.D. Ga. Mar. 8, 2011); *In re* Fuller, 2010 WL 1463150 (Bankr. D. Colo. Mar. 11, 2010); *In re* Bevelot, 2007 WL 4191926 (Bankr. S.D. Ill. Nov. 21, 2007); *In re* Perkins, 381 B.R. 530 (Bankr. S.D. Ill. 2007); *In re* Graham, 63 B.R. 95 (Bankr. E.D. Pa. 1986); *In re* Bond, 36 B.R. 49 (Bankr. E.D.N.C. 1984).

However, even when a court would otherwise consider granting such a discharge, there are two requirements for a discharge that may not be satisfied by a deceased debtor, but only one of them lacks a statutory solution.

Under Section 1328(g)(1), the court may not grant a discharge under Section 1328 unless "after filing a petition the debtor has completed an instructional course concerning personal financial management." However, that requirement "shall not apply with respect to a debtor who is a person described in section 109(h)(4)." Section 1328(g)(2). Section 109(h)(4) excuses an individual debtor from receiving prebankruptcy credit counseling if the debtor "is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone." Courts have generally interpreted "incapacity" to include a debtor's death for purposes of Section 1328(g)(2) and have granted hardship discharges to deceased debtors who did not complete the instructional course. *See In re* Fogel, 550 B.R. 532, 536 (D. Colo. 2015); *In re* Shorter, 544 B.R. 654, 669-70 (Bankr. E.D. Ark. 2015); *In re* Lizzi, 2015 WL 1576513, *7 (Bankr. N.D.N.Y. Apr. 3, 2015); *In re* Inyard, 532 B.R. 364, 373 (Bankr. D. Kan. 2015). *Cf. In re* Thomas, 2008 WL 4835911, *1 (Bankr. D.C. Nov. 6, 2008); *In re* Robles, 2007 WL 4410395, *2 (Bankr. W.D. Tex. Dec. 13, 2007); *In re* Trembulak, 362 B.R. 205, 207 (Bankr. D.N.J. 2007) (concluding that death is the equivalent of incapacity excusing the discharge requirement of Section 727(a)(11) that debtor complete an instructional course on personal financial management). *But see In re* White, 2011 WL 3426166 (Bankr. S.D. Ga. May 16, 2011) (because death is not an exception under Section 109(h)(4), deceased debtor is not excused from completing financial management course as condition to discharge).

Unlike Section 1328(g)(1), the requirement that the debtor provide a certification with respect to DSO obligations under Section 1328(a) is not subject to excuse for the reasons specified in Section 109(h)(4). Therefore, Judge Goldgar is correct that there is no statutory basis for finding that a deceased debtor is exempt from the requirement. *But see In re* Bouton, 2013 WL 55336212 (Bankr. S.D. Ga. 2013) (exempting the deceased debtor from the requirement of filing a DSO certificate when the record showed that the debtor had no DSO obligations); *In re* Runfola, 2011 WL 6752179 (Bankr. E.D. Va. Dec. 22, 2011) (purporting to waive requirements of local bankruptcy rule requiring certifications by deceased debtors without discussing statutory requirement). The question that follows is whether someone else can provide the certification on behalf of a deceased debtor.

In other contexts courts have generally found that the personal representative of a deceased debtor's estate can represent the debtor in connection with administration of the bankruptcy case, whether in chapter 7 or chapter 13. *See, e.g., In re* Kennedy, 2016 WL

6649200 (Bankr. M.D.N.C. Apr. 6, 2016); *In re* Inyard, 532 B.R. 364 (Bankr. D. Kan. 2015); *In re* Quint, 2012 WL 2370095 (Bankr. D.S.C. June 22, 2012); *In re* Dickerson, 2012 WL 734160 (Bankr. N.D. Ohio Mar. 6, 2012); *In re* Seitz, 430 B.R. 761 (Bankr. N.D. Tex. 2010); *In re* Lucio, 251 B.R. 705 (Bankr. W.d. Tex. 2000); *In re* Walters, 113 B.R. 602 (Bankr. D.S.D. 1990). *Cf. In re* Marks, 595 B.R. 881 (Bankr. E.D. Mich. 2019) (after withdrawal of motion to allow representative of probate estate of deceased debtor to represent the debtor, court dismissed case because personal representative was only person who could appear on debtor's behalf); *In re* Vetter, 2012 WL 1597378 (Bankr. D.S.C. May 7, 2012) (failure of representative of debtor's probate estate to notify the court of debtor's death and seek designation to act on debtor's behalf led to dismissal of chapter 7 case). *But see In re* Shepherd, 490 B.R. 338, 342 (Bankr. N.D. Ind. 2013) (personal representative cannot act for the deceased debtor because a probate estate is not a "person" who is eligible to file for bankruptcy protection).

The conclusion that a personal representative has standing to pursue administration of the bankruptcy case of a deceased debtor is inherent in the language of Rule 1016. If a case may proceed and be concluded notwithstanding the death of the debtor, someone must have standing to make that happen and, at a minimum, the representative of the deceased's estate recognized as a matter of state probate law would be the logical choice.

Of course, not all debtors have representatives of their estates (because not all estates are probated), and in *In re* Shorter, 544 B.R. 654, 660 (Bankr. E.D. Ark. 2015), the bankruptcy court permitted debtor's widow (whose earnings were applied to debtor's plan payments while he was alive) to seek a hardship discharge. The court also held that the deceased debtor's attorney may pursue a hardship discharge. *Id*. at 660. The court rejected a "hard and fast rule that a personal representative of a probate estate or some other … person previously designated by court appointment is the only person who may have standing to pursue further administration under Rule 1016." *Id*. at 661. Instead, the court suggested that it was appropriate to decide "who may act on a case-by-case basis." A spouse who took on financial responsibility for her deceased spouse's chapter 13 plan payments, was an interested person under the state probate code and was knowledgeable about his financial affairs was an appropriate person to make decisions under Rule 1016 on behalf of the debtor. *Id*. at 662.

The only case to discuss the issue of the required DSO certificate for a deceased debtor who potentially had DSO obligations was *In re* Levy, 2015 WL 1323165 (Bankr. N.D. Ohio Mar. 31, 2014), a joint chapter 13 case. After the death of Mr. Levy, Mrs. Levy completed all plan payments and sought a discharge for both debtors under Section 1328(a). She signed the DSO certification on behalf of her husband. The bankruptcy court noted that domestic support obligations are not affected by entry of a discharge, and therefore the DSO certification "is more form than substance." *Id*. at *3. Therefore, "the court finds no reason that the DSO certification requirement cannot be undertaken by another in appropriate circumstances." *Id*. Identification of the person who can act in this respect "must be determined case by case." *Id*. at *4. For purposes of filing the end-of-case documents, "a person with specific knowledge of the deceased debtor's finances may act on behalf of debtor." *Id*. "To establish knowledge, the person must file an affidavit outlining a sufficient factual foundation in order to establish a fitting record." *Id*. The court directed that:

> "the person seeking to sign end of case document on behalf of a deceased debtor [ ] file a motion, and properly serve and notice it, setting forth the following: (1) whether there is a probate estate, whether the creation of a probate estate is expected and, if not, why; (2) the identification of the party seeking to act, his or her relationship to the debtor, and a foundation for his/her personal knowledge, all set forth in an affidavit; and (3) acceptable proof of death, such as a copy of a death certificate."

Id. at *4.

Recommendation

The Subcommittee disagrees with the suggestion of Mr. Weiss that the problem is appropriately addressed in Rule 9010(a). Rule 9010(a) allows debtors (and other parties in interest) to "perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy." In order to have an authorized agent, attorney in fact or proxy, the debtor would necessarily have to be living. Once the debtor (or principal) dies, the agent is no longer authorized, and any power of attorney or proxy terminates. *See, e.g*., Uniform Power of Attorney Act, § 110(a)(1) (2006) (a power of attorney – which includes any record that grants authority to an agent to act in the place of the principal -- terminates when the principal dies). There is nothing in Rule 9010 that is applicable to a deceased debtor. (The suggestion that Rule 9010(a) needs to be amended because it allows an agent, attorney in fact or proxy for the debtor to undergo credit counseling or take a personal financial management course is a solution in search of a problem.)

Rule 1016 could be amended to address the problem of the appropriate representative for administering the estate of a deceased debtor by adding language such as that below:

Rule 1016. Death or Incompetency of Debtor

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. A personal representative of the estate of the deceased debtor, or any other person with specific knowledge of the deceased debtor's finances, may seek court approval to represent the debtor during such continued administration.

However, such an amendment would not provide authority to any such representative to sign the DSO certificate, because § 1328(a) requires that the debtor do so. The Subcommittee agrees with Judge Goldgar – there is no rules-based solution to the DSO certification problem. Therefore, the Subcommittee recommends no action in response to these suggestions.

M E M O R A N D U M

TO: Advisory Committee on Bankruptcy Rules

FROM: Joe Kimble, Bryan Garner, Joe Spaniol

DATE: March 16, 2020

RE: The enabling acts and the restyling project

The Rules Enabling Act (in 28 U.S.C. § 2072) gives the Supreme Court complete authority over procedural rules. The only limitation is that a rule must not "abridge, enlarge, or modify any substantive right." The supersession clause does not qualify or otherwise affect that authority in any way. It provides that if a law does conflict with a rule—a rule that by definition can only be procedural—the rule prevails on that matter of procedure.

The supersession clause in § 2072(b) repealed existing laws in effect when that statute was enacted.

Section 2075 gives the Supreme Court the same complete authority over bankruptcy rules of procedure. Again, the only limitation is that a rule must not "abridge, enlarge, or modify any substantive right." The concern is all about intruding into substantive rights.

When Congress enacted the Bankruptcy Reform Act of 1978, 28 U.S.C. § 2075, an earlier supersession clause was eliminated because Congress was extensively revising the Bankruptcy Code and removing almost all procedural provisions from the Code, leaving them to the bankruptcy rules. S. Rep. No. 95-989 (1978). So no supersession clause was needed. See the attached legislative history.

At most, the absence of a supersession clause might mean that on a matter of bankruptcy *procedure*, Congress has the final say. But even that is problematic: it assumes that Congress, even after giving the Supreme Court complete authority over bankruptcy procedure, wanted to retain for itself the final say on procedure—even though Congress did not do the same for other rules. It seems equally likely that the clause's absence is simply the product of the extensive revision to the Bankruptcy Code that § 2075 was part of.

At any rate, this entire argument is truly moot because the restyling project does not (1) affect any substantive right or (2) affect any procedural right. We are not contradicting the Bankruptcy Code in any way.

What's more, even if we were, once the restyled rules are approved, the entire argument becomes doubly moot, because anything to the contrary that Congress enacted earlier becomes null.

Needlessly introducing internal inconsistencies to follow a wording that Congress once used will lead to needless arguments that substantive rights have been affected—regardless of any committee note to the contrary. The whole idea of restyling is to bring about clarity and consistency, and that's what we've been doing—without contradicting, modifying, or in any way changing a substantive or procedural right.

UNITED STATES CODE

Congressional and Administrative News

95th Congress—Second Session

1978

Convened January 19, 1978
Adjourned October 15, 1978

Volume 5

LEGISLATIVE HISTORY

ST. PAUL, MINN.
WEST PUBLISHING CO.

Section 220

Subsection (a) of this section amends chapter 121 of title 28 of the United States Code relating to trial by jury by adding at the end thereof a new section dealing with jury trials in cases and proceedings under title 11.

Section 1875. Jury trials in cases and proceedings under title 11

Subsection (a) continues any current right of a litigant in a case or proceeding under title 11 or related to such a case, to a jury trial.

Subsection (b) permits the issues arising on the trial of an involuntary petition in bankruptcy to be tried without a jury.

Subsection (b) amends the table of sections of chapter 121 of title 28 of the United States Code by adding at the end thereof the number and heading of the new section dealing with jury trials in cases and proceedings under title 11.

Section 221

Subsection (a) of this section amends chapter 123 of title 28 of the United States Code relating to fees and costs by inserting at the end thereof a new section dealing with bankruptcy fees.

Section 1930. Bankruptcy fees

Subsection (a) of this section fixes the filing fee for a bankruptcy case at $60. Under current law the filing fee is $30, not including an additional $15 confirmation fee, for a chapter XIII case and $50 for a straight bankruptcy, chapter XI, or chapter XII case. The filing fee is somewhat higher for cases under chapters IX, X, and section 77. An individual instituting a voluntary bankruptcy case may pay the filing fee in installments.

Subsection (b) permits the Director of the Administrative Office of the U.S. Courts, with approval of the Judicial Conference, to prescribe additional fees, including fees to be assessed against bankrupt estates similar to the fees currently assessed pursuant to section 40c of the Bankruptcy Act. A proviso limits the maximum assessment against an estate to $100,000. The Director, with the approval of the Conference, is authorized to promulgate rules and regulations governing assessment of these fees.

Subsection (c), copied from 28 U.S.C. 1917, governs fees upon the filing of a notice of appeal or application for appeal.

Subsection (d) governs the payment of costs in instances where a case or proceeding is dismissed for want of jurisdiction.

Subsection (e) prohibits the clerk of the bankruptcy court from collecting any fees other than those prescribed under this section.

Subsection (b) of section 220 amends the table of sections of chapter 123 of title 28 of the United States Code by adding at the end thereof the number and heading of the new section relating to bankruptcy fees.

Section 222

This section makes a conforming change and a major change in 28 U.S.C. 2075 which authorizes the Supreme Court to prescribe rules of practice and procedure for the bankruptcy courts. The first change is

a conforming change which merely deletes a reference to the Bankruptcy Act and inserts in lieu thereof a reference to title 11. The second change repeals the last sentence of 28 U.S.C. 2075 which provides that rules supersede provisions of the Bankruptcy Act in conflict with the rules. This bill extensively revises the bankruptcy law. Nearly all procedural matters have been removed and left to the Rules of Bankruptcy Procedure. Consequently, the need to permit the Supreme Court's rules to supersede the statute no longer exists. To the extent a rule is inconsistent, the statute will govern.

Section 223

This section amends 28 U.S.C. 2201 relating to declaratory judgments, to except from the prohibition on declaratory judgment on tax matters, the two instances provided for under the bankruptcy code, relating to relief of a trustee from personal liability for taxes owing by the estate [11 U.S.C. 505(c)] and the tax effects of a reorganization [11 U.S.C. 1146(d)].

Section 224

Subsection (a) of this section adds a new section 2256 to chapter 153 of title 28, relating to writ of habeas corpus:

§ 2256. Habeas corpus from bankruptcy courts

Under this section, the bankruptcy court is authorized to issue the writ of habeas corpus when appropriate to bring a person before the court for examination, to testify, or to perform a duty imposed on him under title 28. The court may also issue the writ to release a debtor in custody under the judgment of a State or Federal court if the debtor was arrested or imprisoned on process in a civil action, if the process was issued for the collection of a debt that is dischargeable in bankruptcy or that is or will be provided for in a reorganization or individual repayment plan, and if the person holding the debtor in custody is given notice and a hearing in order to contest the issuance of the writ.

Subsection (b) of section 223 of the bill adds a reference to new section 2256 to the table of sections of chapter 153 of title 28.

Section 225

This section amends rule 1101(a) of the Federal Rules of Evidence to delete a reference to referees in bankruptcy and insert a reference to bankruptcy judges in lieu thereof. The section further amends rule 1101(b) to delete a reference to the Bankruptcy Act and to substitute a reference to title 11 of the United States Code in lieu thereof.

Section 226

Subsection (a) of this section amends section 8339 of Title 5 of the United States Code relating to the computation of the annuity payable to persons retiring under the civil service law. The significant amendment provides for computation of the annuity payable to a bankruptcy judge at the same rate used in computing the annuity for Members of Congress or congressional employees. The other amendments are conforming amendments.

Subsection (b) amends section 8334(c) of title 5 of the United States Code relating to the deductions, contributions and deposits

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY FULES

FROM: REPORTERS TO THE ADVISORY COMMITTEE

SUBJECT: CHANGES TO FORMS AND RULES TO IMPLEMENT CARES ACT

DATE: MARCH 27, 2020

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), which made several changes to the Bankruptcy Code, most of them temporary to provide financial assistance during the coronavirus crisis. These changes affect the Bankruptcy Forms and Rules as described below.

New Definition of Debtor in § 1182(1)

The CARES Act modifies the definition of "debtor" for determining eligibility to proceed under subchapter V of chapter 11. Previously, § 1182(1) defined "debtor" under subchapter V as "a small business debtor." A "small business debtor" is defined in § 101(51D) and includes the limitation that the prospective debtor have "aggregate noncontingent liquidated secured and unsecured debts . . . in an amount not more than $ 2,725,625" (a figure subject to adjustment every three years under § 104). Under the CARES Act, § 1182(1) was amended to include a separate definition for "debtor" for subchapter V purposes that is identical to the definition for "small business debtor" in all respects except that the debt limitation is $7,500,000. The CARES Act also amended § 103(i) to provide that subchapter V of chapter 11 applies to a "debtor (as defined in section 1182(1))" who elects such treatment, rather than a "small business debtor" who so elects. The definition of "debtor" in § 1182(1) will revert to its prior version one year after the effective date of the CARES Act.

Form 101. In existing Form 101, line 13 asks the debtor whether he or she intends to file under chapter 11, whether he or she is a small business debtor, and if so whether he or she intends to elect treatment under subchapter V of chapter 11. Because of the new definition of "debtor" in § 1182(1), we must modify line 13 to ask not only whether the individual debtor is a small business debtor, but also whether he or she is a debtor as defined in § 1182(1) and whether he or she wishes to proceed under subchapter V.

Form 201. In existing Form 201, line 8, if the debtor files under chapter 11 we ask the debtor to check a box (if applicable) to confirm its aggregate debts are less than the $ 2,725,625 figure in the definition of "small business debtor." The debtor is also asked to check a box if the debtor is a small business debtor, and a separate box if the debtor is a small business debtor and wishes to elect subchapter V treatment. Because of the amended definition of "debtor" in § 1182(1), we have proposed to modify line 8 to add a box to permit the debtor to confirm that its aggregate debts are less than $7,500,000 (the figure in the definition of "debtor" in § 1182(1)). We also propose to add another box that indicates that the debtor is a "debtor" within the

meaning of § 1182(1) and elects subchapter V treatment, and remove the language permitting such an election with respect to "small business debtors."

Rule 1020. Rule 1020 provides procedural rules for "small business chapter 11 reorganization cases." Because of the revised definition of "debtor" for purposes of subchapter V elections, we must include separate references to a "debtor as defined in § 1182(1)" whenever the rule previously mentioned a "small business debtor."

Amendment to Definitions of Current Monthly Income and Disposable Income

The CARES Act amends the definition of "current monthly income" in § 101(10A)(B)(ii) to add a new exclusion from the computation of "current monthly income" for ''(V) Payments made under Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID–19).'' An identical exclusion was inserted in § 1325(b)(2) for computing disposable income. As a result, we need to insert the exclusion in Forms 122A-1 (chapter 7 statement of current monthly income), 122B (chapter 11 statement of current monthly income), and 122C-1 (Chapter 13 statement of current monthly income). You will see the exclusion in line 10 of each of the proposed amended forms. These amendments have a duration of one year after the effective date of the CARES Act, at which time we will revert to the former version of these forms.

Amendment to § 1329 with respect to Modification of Chapter 13 Plans

The CARES Act also amends § 1329 to allow a chapter 13 plan confirmed before the effective date of the CARES Act to be modified if "the debtor is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID–19) pandemic." Such modifications must be approved after notice and a hearing and may "not provide for payments over a period that expires more than 7 years after the time that the first payment under the original confirmed plan was due."

The reporters considered whether any modifications to rules or forms were necessary as a result of this amendment, but concluded that no changes were necessary because § 1329 remains the statutory basis for these modifications.

Recommendation

The reporters recommend that the Advisory Committee approve the proposed amendments to Official Forms 101, 201, 122A-1, 122B, and 122C-1 as described above. In order for these changes to be implemented immediately, we recommend that the Advisory Committee exercise its delegated authority to make conforming changes to the Official Forms, subject to subsequent approval by the Standing Committee and notice to the Judicial Conference.

The reporters also recommend that the Advisory Committee approve the amendments to Rule 1020 as described above and seek the approval of the Standing Committee and the Judicial Conference to issue the amended rule as an interim rule to be implemented by each district as a

local rule or standing order. Because of the immediate effective date of the CARES Act, the limited duration of its bankruptcy provisions, and relatively minor nature of the amendments, we recommend that the interim rule be issued without publication.

AUTHENTICATED
U.S. GOVERNMENT
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In the Senate of the United States,

March 25, 2020.

Resolved, That the bill from the House of Representatives (H.R. 748) entitled "An Act to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.", do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the "Coronavirus Aid, Relief,*
3 *and Economic Security Act" or the "CARES Act".*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *The table of contents for this Act is as follows:*

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION

TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

Sec. 1101. Definitions.
Sec. 1102. Paycheck protection program.

1 *(e) RULE OF CONSTRUCTION.—Nothing in this section*
2 *may be construed to limit the authority of the Adminis-*
3 *trator to make payments pursuant to subsection (c) with*
4 *respect to a covered loan solely because the covered loan has*
5 *been sold in the secondary market.*

6 *(f) AUTHORIZATION OF APPROPRIATIONS.—There is*
7 *authorized to be appropriated to the Administrator*
8 *$17,000,000,000 to carry out this section.*

9 ***SEC. 1113. BANKRUPTCY.***

10 *(a) SMALL BUSINESS DEBTOR REORGANIZATION.—*
11 *(1) IN GENERAL.—Section 1182(1) of title 11,*
12 *United States Code, is amended to read as follows:*
13 *"(1) DEBTOR.—The term 'debtor'—*
14 *"(A) subject to subparagraph (B), means a*
15 *person engaged in commercial or business activi-*
16 *ties (including any affiliate of such person that*
17 *is also a debtor under this title and excluding a*
18 *person whose primary activity is the business of*
19 *owning single asset real estate) that has aggre-*
20 *gate noncontingent liquidated secured and unse-*
21 *cured debts as of the date of the filing of the peti-*
22 *tion or the date of the order for relief in an*
23 *amount not more than $7,500,000 (excluding*
24 *debts owed to 1 or more affiliates or insiders) not*

1 *less than 50 percent of which arose from the com-*
2 *mercial or business activities of the debtor; and*
3 *''(B) does not include—*
4 *''(i) any member of a group of affili-*
5 *ated debtors that has aggregate noncontin-*
6 *gent liquidated secured and unsecured debts*
7 *in an amount greater than $7,500,000 (ex-*
8 *cluding debt owed to 1 or more affiliates or*
9 *insiders);*
10 *''(ii) any debtor that is a corporation*
11 *subject to the reporting requirements under*
12 *section 13 or 15(d) of the Securities Ex-*
13 *change Act of 1934 (15 U.S.C. 78m,*
14 *78o(d)); or*
15 *''(iii) any debtor that is an affiliate of*
16 *an issuer, as defined in section 3 of the Se-*
17 *curities Exchange Act of 1934 (15 U.S.C.*
18 *78c).''.*
19 *(2) APPLICABILITY OF CHAPTERS.—Section*
20 *103(i) of title 11, United States Code, is amended by*
21 *striking ''small business debtor'' and inserting ''debtor*
22 *(as defined in section 1182)''.*
23 *(3) APPLICATION OF AMENDMENT.—The amend-*
24 *ment made by paragraph (1) shall apply only with*
25 *respect to cases commenced under title 11, United*

1 *States Code, on or after the date of enactment of this*
2 *Act.*
3 *(4) TECHNICAL CORRECTIONS.—*
4 *(A) DEFINITION OF SMALL BUSINESS DEBT-*
5 *OR.—Section 101(51D)(B)(iii) of title 11,*
6 *United States Code, is amended to read as fol-*
7 *lows:*
8 *"(iii) any debtor that is an affiliate of*
9 *an issuer (as defined in section 3 of the Se-*
10 *curities Exchange Act of 1934 (15 U.S.C.*
11 *78c)).".*
12 *(B) UNCLAIMED PROPERTY.—Section*
13 *347(b) of title 11, United States Code, is amend-*
14 *ed by striking "1194" and inserting "1191".*
15 *(5) SUNSET.—On the date that is 1 year after*
16 *the date of enactment of this Act, section 1182(1) of*
17 *title 11, United States Code, is amended to read as*
18 *follows:*
19 *"(1) DEBTOR.—The term 'debtor' means a small*
20 *business debtor.".*
21 *(b) BANKRUPTCY RELIEF.—*
22 *(1) IN GENERAL.—*
23 *(A) EXCLUSION FROM CURRENT MONTHLY*
24 *INCOME.—Section 101(10A)(B)(ii) of title 11,*
25 *United States Code, is amended—*

1 *(i) in subclause (III), by striking "; and" and inserting a semicolon;*

3 *(ii) in subclause (IV), by striking the period at the end and inserting "; and"; and*

6 *(iii) by adding at the end the following:*

8 *"(V) Payments made under Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID–19).".*

15 *(B) CONFIRMATION OF PLAN.—Section 1325(b)(2) of title 11, United States Code, is amended by inserting "payments made under Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID–19)," after "other than".*

23 *(C) MODIFICATION OF PLAN AFTER CONFIRMATION.—Section 1329 of title 11, United*

1 *States Code, is amended by adding at end the*
2 *following:*
3 *"(d)(1) Subject to paragraph (3), for a plan confirmed*
4 *prior to the date of enactment of this subsection, the plan*
5 *may be modified upon the request of the debtor if—*
6 *"(A) the debtor is experiencing or has experi-*
7 *enced a material financial hardship due, directly or*
8 *indirectly, to the coronavirus disease 2019 (COVID–*
9 *19) pandemic; and*
10 *"(B) the modification is approved after notice*
11 *and a hearing.*
12 *"(2) A plan modified under paragraph (1) may not*
13 *provide for payments over a period that expires more than*
14 *7 years after the time that the first payment under the*
15 *original confirmed plan was due.*
16 *"(3) Sections 1322(a), 1322(b), 1323(c), and the re-*
17 *quirements of section 1325(a) shall apply to any modifica-*
18 *tion under paragraph (1).".*
19 *(D) APPLICABILITY.—*
20 *(i) The amendments made by subpara-*
21 *graphs (A) and (B) shall apply to any case*
22 *commenced before, on, or after the date of*
23 *enactment of this Act.*
24 *(ii) The amendment made by subpara-*
25 *graph (C) shall apply to any case for which*

1 *a plan has been confirmed under section*
2 *1325 of title 11, United States Code, before*
3 *the date of enactment of this Act.*
4 *(2) SUNSET.—*
5 *(A) IN GENERAL.—*
6 *(i) EXCLUSION FROM CURRENT*
7 *MONTHLY INCOME.—Section*
8 *101(10A)(B)(ii) of title 11, United States*
9 *Code, is amended—*
10 *(I) in subclause (III), by striking*
11 *the semicolon at the end and inserting*
12 *"; and";*
13 *(II) in subclause (IV), by striking*
14 *"; and" and inserting a period; and*
15 *(III) by striking subclause (V).*
16 *(ii) CONFIRMATION OF PLAN.—Section*
17 *1325(b)(2) of title 11, United States Code,*
18 *is amended by striking "payments made*
19 *under Federal law relating to the national*
20 *emergency declared by the President under*
21 *the National Emergencies Act (50 U.S.C.*
22 *1601 et seq.) with respect to the coronavirus*
23 *disease 2019 (COVID–19),".*
24 *(iii) MODIFICATION OF PLAN AFTER*
25 *CONFIRMATION.—Section 1329 of title 11,*

1 *United States Code, is amended by striking*
2 *subsection (d).*
3 *(B) EFFECTIVE DATE.—The amendments*
4 *made by subparagraph (A) shall take effect on*
5 *the date that is 1 year after the date of enact-*
6 *ment of this Act.*

7 ***SEC. 1114. EMERGENCY RULEMAKING AUTHORITY.***

8 *Not later than 15 days after the date of enactment of*
9 *this Act, the Administrator shall issue regulations to carry*
10 *out this title and the amendments made by this title without*
11 *regard to the notice requirements under section 553(b) of*
12 *title 5, United States Code.*

13 *TITLE II—ASSISTANCE FOR*
14 *AMERICAN WORKERS, FAMI-*
15 *LIES, AND BUSINESSES*

16 *Subtitle A—Unemployment*
17 *Insurance Provisions*

18 ***SEC. 2101. SHORT TITLE.***

19 *This subtitle may be cited as the "Relief for Workers*
20 *Affected by Coronavirus Act".*

21 ***SEC. 2102. PANDEMIC UNEMPLOYMENT ASSISTANCE.***

22 *(a) DEFINITIONS.—In this section:*
23 *(1) COVID–19.—The term "COVID–19" means*
24 *the 2019 Novel Coronavirus or 2019-nCoV.*

1 **Rule 1020. Chapter 11 Reorganization Case for Small**

2 **Business Debtors or Debtors Under Subchapter V**

3 (a) ~~SMALL BUSINESS~~ DEBTOR

4 DESIGNATION. In a voluntary chapter 11 case, the debtor

5 shall state in the petition whether the debtor is a small

6 business debtor or a debtor as defined in § 1182(1) of the

7 Code and, if the latter ~~so~~, whether the debtor elects to have

8 subchapter V of chapter 11 apply. In an involuntary chapter

9 11 case, the debtor shall file within 14 days after entry of the

10 order for relief a statement as to whether the debtor is a small

11 business debtor or a debtor as defined in § 1182(1) of the

12 Code and, if the latter ~~so~~, whether the debtor elects to have

13 subchapter V of chapter 11 apply. The status of the case as

14 a small business case or a case under subchapter V of chapter

15 11 shall be in accordance with the debtor's statement under

16 this subdivision, unless and until the court enters an order
17 finding that the debtor's statement is incorrect.

18 (b) OBJECTING TO DESIGNATION. The United
19 States trustee or a party in interest may file an objection to
20 the debtor's statement under subdivision (a) no later than 30
21 days after the conclusion of the meeting of creditors held
22 under § 341(a) of the Code, or within 30 days after any
23 amendment to the statement, whichever is later.

24 (c) PROCEDURE FOR OBJECTION OR
25 DETERMINATION. Any objection or request for a
26 determination under this rule shall be governed by Rule 9014
27 and served on: the debtor; the debtor's attorney; the United
28 States trustee; the trustee; the creditors included on the list
29 filed under Rule 1007(d) or, if a committee has been
30 appointed under § 1102(a)(3), the committee or its
31 authorized agent; and any other entity as the court directs.

COMMITTEE NOTE

The rule is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. ____, ___ Stat. ___. That law provides a new definition of "debtor" for determining eligibility to proceed under subchapter V of chapter 11. Subdivision (a) of the rule is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

Fill in this information to identify your case:

United States Bankruptcy Court for the:

____________________ District of ________________
(State)

Case number (*If known*): ________________________ Chapter you are filing under:

❑ Check if this is an amended filing

❑ Chapter 7
❑ Chapter 11
❑ Chapter 12
❑ Chapter 13

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

04/20

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

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

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	________________ First name ________________ Middle name ________________ Last name ________________ Suffix (Sr., Jr., II, III)	________________ First name ________________ Middle name ________________ Last name ________________ Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names.	________________ First name ________________ Middle name ________________ Last name ________________ First name ________________ Middle name ________________ Last name	________________ First name ________________ Middle name ________________ Last name ________________ First name ________________ Middle name ________________ Last name

3. **Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number** (ITIN)	xxx – xx – ____ ____ ____ ____ OR **9** xx – xx – ____ ____ ____ ____	xxx – xx – ____ ____ ____ ____ OR **9** xx – xx – ____ ____ ____ ____
	About Debtor 1:	**About Debtor 2 (Spouse Only in a Joint Case):**
4. **Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years** Include trade names and *doing business as* names	❑ I have not used any business names or EINs. ______________________ Business name ______________________ Business name __ __ – __ __ __ __ __ __ __ EIN __ __ – __ __ __ __ __ __ __ EIN	❑ I have not used any business names or EINs. ______________________ Business name ______________________ Business name __ __ – __ __ __ __ __ __ __ EIN __ __ – __ __ __ __ __ __ __ EIN
5. **Where you live**	______________________ Number Street ______________________ ______________________ City State ZIP Code ______________________ County **If your mailing address is different from the one above, fill it in here.** Note that the court will send any notices to you at this mailing address. ______________________ Number Street ______________________ P.O. Box ______________________ City State ZIP Code	**If Debtor 2 lives at a different address:** ______________________ Number Street ______________________ ______________________ City State ZIP Code ______________________ County **If Debtor 2's mailing address is different from yours, fill it in here.** Note that the court will send any notices to this mailing address. ______________________ Number Street ______________________ P.O. Box ______________________ City State ZIP Code

6. Why you are choosing *this district* to file for bankruptcy

	Debtor 1	Debtor 2
	Check one:	*Check one:*
	❑ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.	❑ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.
	❑ I have another reason. Explain. (See 28 U.S.C. § 1408.) ________________________________ ________________________________ ________________________________ ________________________________	❑ I have another reason. Explain. (See 28 U.S.C. § 1408.) ________________________________ ________________________________ ________________________________ ________________________________

Part 2: Tell the Court About Your Bankruptcy Case

7. The chapter of the Bankruptcy Code you are choosing to file under

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

❑ Chapter 7

❑ Chapter 11

❑ Chapter 12

❑ Chapter 13

8. How you will pay the fee

❑ **I will pay the entire fee when I file my petition**. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

❑ **I need to pay the fee in installments**. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

❑ **I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

❑ No

❑ Yes. District ____________________ When ____________ (MM / DD / YYYY) Case number ____________________

District ____________________ When ____________ (MM / DD / YYYY) Case number ____________________

District ____________________ When ____________ (MM / DD / YYYY) Case number ____________________

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

❑ No

❑ Yes. Debtor _______________ Relationship to you _______________

District _______________ When _______________ MM / DD / YYYY Case number, if known_______________

Debtor _______________ Relationship to you _______________

District _______________ When _______________ MM / DD / YYYY Case number, if known_______________

11. Do you rent your residence?

❑ No. Go to line 12.

❑ Yes. Has your landlord obtained an eviction judgment against you?

❑ No. Go to line 12.

❑ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor

12. Are you a sole proprietor of any full- or part-time business?

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

❑ No. Go to Part 4.

❑ Yes. Name and location of business

____
Name of business, if any

____
Number Street

____

_______________ City _______ State _______ ZIP Code

Check the appropriate box to describe your business:

❑ 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))

❑ Stockbroker (as defined in 11 U.S.C. § 101(53A))

❑ Commodity Broker (as defined in 11 U.S.C. § 101(6))

❑ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a *small business debtor* or a debtor as defined by 11 U.S. C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

❑ No. I am not filing under Chapter 11.

❑ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.

❑ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.

❑ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

- ❑ No
- ❑ Yes. What is the hazard? ____

____

If immediate attention is needed, why is it needed? ____

____

Where is the property? ____
Number Street

____

______________________ ______ __________
City State ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling

15. Tell the court whether you have received a briefing about credit counseling.

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

  Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

  Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ❑ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

  To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

  Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

  If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

  Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ❑ **I am not required to receive a briefing about credit counseling because of:**

  - ❑ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
  - ❑ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
  - ❑ **Active duty.** I am currently on active military duty in a military combat zone.

  If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

  Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

  Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ❑ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

  To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

  Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

  If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

  Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ❑ **I am not required to receive a briefing about credit counseling because of:**

  - ❑ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
  - ❑ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
  - ❑ **Active duty.** I am currently on active military duty in a military combat zone.

  If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes

16. What kind of debts do you have?

16a. **Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ❑ No. Go to line 16b.
- ❑ Yes. Go to line 17.

16b. **Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ❑ No. Go to line 16c.
- ❑ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.

____

17. Are you filing under Chapter 7?

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- ❑ No. I am not filing under Chapter 7. Go to line 18.
- ❑ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
  - ❑ No
  - ❑ Yes

18. How many creditors do you estimate that you owe?

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

19. How much do you estimate your assets to be worth?

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

20. How much do you estimate your liabilities to be?

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

Part 7: Sign Below

For you

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11,12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand 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 $250,000, or imprisonment for up to 20 years, or both.
18 U.S.C. §§ 152, 1341, 1519, and 3571.

✘ ______________________________ ✘ ______________________________

Signature of Debtor 1 Signature of Debtor 2

Executed on ______________ Executed on ______________
MM / DD / YYYY MM / DD / YYYY

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

✘ ______________________________ Date ______________
Signature of Attorney for Debtor MM / DD / YYYY

____
Printed name

____
Firm name

____
Number Street

____

______________________________ ________ ______________
City State ZIP Code

Contact phone ______________________ Email address ______________________

______________________________ ________
Bar number State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ☐ No
- ☐ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ☐ No
- ☐ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ☐ No
- ☐ Yes. Name of Person____.
  Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

✘ ________________________________	✘ ________________________________
Signature of Debtor 1	Signature of Debtor 2
Date ______________ MM / DD / YYYY	Date ______________ MM / DD / YYYY
Contact phone ______________________	Contact phone ______________________
Cell phone ______________________	Cell phone ______________________
Email address ______________________	Email address ______________________

Committee Note

The form is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. ____, ___ Stat. ___. That law provides a new definition of "debtor" for determining eligibility to proceed under subchapter V of chapter 11. Line 13 of the form is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

Fill in this information to identify your case:

Debtor 1 ____
First Name Middle Name Last Name

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

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

Case number ____
(If known)

Check one box only as directed in this form and in Form 122A-1Supp:

- ❑ 1. There is no presumption of abuse.
- ❑ 2. The calculation to determine if a presumption of abuse applies will be made under *Chapter 7 Means Test Calculation* (Official Form 122A–2).
- ❑ 3. The Means Test does not apply now because of qualified military service but it could apply later.

❑ Check if this is an amended filing

Official Form 122A–1

Chapter 7 Statement of Your Current Monthly Income

04/20

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known). If you believe that you are exempted from a presumption of abuse because you do not have primarily consumer debts or because of qualifying military service, complete and file *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 122A-1Supp) with this form.

Part 1: Calculate Your Current Monthly Income

1. **What is your marital and filing status?** Check one only.
   - ❑ **Not married.** Fill out Column A, lines 2-11.
   - ❑ **Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.
   - ❑ **Married and your spouse is NOT filing with you. You and your spouse are:**
     - ❑ **Living in the same household and are not legally separated.** Fill out both Columns A and B, lines 2-11.
     - ❑ **Living separately or are legally separated**. Fill out Column A, lines 2-11; do not fill out Column B. By checking this box, you declare under penalty of perjury that you and your spouse are legally separated under nonbankruptcy law that applies or that you and your spouse are living apart for reasons that do not include evading the Means Test requirements. 11 U.S.C. § 707(b)(7)(B).

Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case. 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write $0 in the space.

	Column A **Debtor 1**	*Column B* **Debtor 2 or non-filing spouse**
2. **Your gross wages, salary, tips, bonuses, overtime, and commissions** (before all payroll deductions).	$________	$________
3. **Alimony and maintenance payments.** Do not include payments from a spouse if Column B is filled in.	$________	$________
4. **All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.** Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	$________	$________

5. **Net income from operating a business, profession, or farm**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from a business, profession, or farm	$______	$______	Copy here➔	$________	$________

6. **Net income from rental and other real property**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from rental or other real property	$______	$______	Copy here➔	$________	$________

7. **Interest, dividends, and royalties** $________ $________

Debtor 1 ____ Case number (*if known*)______________________________
First Name Middle Name Last Name

	Column A **Debtor 1**	*Column B* **Debtor 2 or non-filing spouse**
8. **Unemployment compensation**	$__________	$__________
Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: .... For you .... $_____________ For your spouse .... $_____________		
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act. Also, except as stated in the next sentence, do not include any compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If you received any retired pay paid under chapter 61 of title 10, then include that pay only to the extent that it does not exceed the amount of retired pay to which you would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.	$__________	$__________
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act; payments made under the Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19); payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism; or compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If necessary, list other sources on a separate page and put the total below.		
______________________________	$__________	$__________
______________________________	$__________	$__________
Total amounts from separate pages, if any.	+ $__________	+ $__________
11. **Calculate your total current monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	$__________ +	$__________ = $__________ **Total current monthly income**

Part 2: Determine Whether the Means Test Applies to You

12. **Calculate your current monthly income for the year.** Follow these steps:

12a. Copy your total current monthly income from line 11. .... **Copy line 11 here➔** $__________

Multiply by 12 (the number of months in a year). **x** 12

12b. The result is your annual income for this part of the form. 12b. $__________

13. **Calculate the median family income that applies to you.** Follow these steps:

Fill in the state in which you live. [ ]

Fill in the number of people in your household. [ ]

Fill in the median family income for your state and size of household. .... 13. $__________

To find a list of applicable median income amounts, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

14. **How do the lines compare?**

14a. ☐ Line 12b is less than or equal to line 13. On the top of page 1, check box 1, *There is no presumption of abuse.* Go to Part 3. Do NOT fill out or file Official Form 122A-2.

14b. ☐ Line 12b is more than line 13. On the top of page 1, check box 2, *The presumption of abuse is determined by Form 122A-2.* Go to Part 3 and fill out Form 122A–2.

Part 3: Sign Below

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

✘ ____
Signature of Debtor 1

Date _________________
MM / DD / YYYY

✘ ____
Signature of Debtor 2

Date _________________
MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Form 122A–2.

If you checked line 14b, fill out Form 122A–2 and file it with this form.

Fill in this information to identify your case:

Debtor 1 ____
First Name Middle Name Last Name

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

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

Case number ____________________________________
(If known)

❒ Check if this is an amended filing

Official Form 122B

Chapter 11 Statement of Your Current Monthly Income

04/20

You must file this form if you are an individual and are filing for bankruptcy under Chapter 11. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

Part 1: Calculate Your Current Monthly Income

1. **What is your marital and filing status?** Check one only.

❑ **Not married.** Fill out Column A, lines 2-11.

❑ **Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.

❑ **Married and your spouse is NOT filing with you.** Fill out Column A, lines 2-11.

Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case. 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write $0 in the space.

	Column A **Debtor 1**	*Column B* **Debtor 2**
2. **Your gross wages, salary, tips, bonuses, overtime, and commissions** (before all payroll deductions).	$________	$________
3. **Alimony and maintenance payments.** Do not include payments from a spouse if Column B is filled in.	$________	$________
4. **All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.** Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	$________	$________

5. **Net income from operating a business, profession, or farm**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from a business, profession, or farm	$______	$______	Copy here ➔	$________	$________

6. **Net income from rental and other real property**

	Debtor 1	Debtor 2			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from rental or other real property	$______	$______	Copy here ➔	$________	$________

	Column A Debtor 1	Column B Debtor 2
7. **Interest, dividends, and royalties**	$__________	$__________
8. **Unemployment compensation**	$__________	$__________
Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here:..............................		
For you .... $_________		
For your spouse.. $_________		
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act. Also, except as stated in the next sentence, do not include any compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If you received any retired pay paid under chapter 61 of title 10, then include that pay only to the extent that it does not exceed the amount of retired pay to which you would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.	$__________	$__________
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act; payments made under the Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19); payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism; or compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If necessary, list other sources on a separate page and put the total below.		
______________________________	$__________	$__________
______________________________	$__________	$__________
Total amounts from separate pages, if any.	+ $__________	+ $__________
11. **Calculate your total current monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	$__________ +	$__________ = $________ **Total current monthly income**

Part 2: Sign Below

By signing here, under penalty of perjury I declare that the information on this statement and in any attachments is true and correct.

✘ ______________________________ Signature of Debtor 1

✘ ______________________________ Signature of Debtor 2

Date _______________ MM / DD / YYYY

Date _______________ MM / DD / YYYY

Fill in this information to identify your case:

Debtor 1 ____
First Name Middle Name Last Name

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

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

Case number ____
(If known)

Check as directed in lines 17 and 21:

According to the calculations required by this Statement:

☐ 1. Disposable income is not determined under 11 U.S.C. § 1325(b)(3).

☐ 2. Disposable income is determined under 11 U.S.C. § 1325(b)(3).

☐ 3. The commitment period is 3 years.

☐ 4. The commitment period is 5 years.

☐ Check if this is an amended filing

Official Form 122C–1

Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period

04/20

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

Part 1: Calculate Your Average Monthly Income

1. **What is your marital and filing status?** Check one only.
   - ☐ **Not married.** Fill out Column A, lines 2-11.
   - ☐ **Married.** Fill out both Columns A and B, lines 2-11.

Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case. 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write $0 in the space.

				Column A **Debtor 1**	*Column B* **Debtor 2 or non-filing spouse**
2. **Your gross wages, salary, tips, bonuses, overtime, and commissions** (before all payroll deductions).				$__________	$__________
3. **Alimony and maintenance payments.** Do not include payments from a spouse.				$__________	$__________
4. **All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.** Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Do not include payments from a spouse. Do not include payments you listed on line 3.				$_________	$__________
5. **Net income from operating a business, profession, or farm**	**Debtor 1**	**Debtor 2**			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from a business, profession, or farm	$______	$______	**Copy here**➔	$_________	$__________
6. **Net income from rental and other real property**	**Debtor 1**	**Debtor 2**			
Gross receipts (before all deductions)	$______	$______			
Ordinary and necessary operating expenses	– $______	– $______			
Net monthly income from rental or other real property	$______	$______	**Copy here**➔	$_________	$__________

	Column A Debtor 1	Column B Debtor 2 or non-filing spouse
7. **Interest, dividends, and royalties**	$________	$________
8. **Unemployment compensation**	$________	$________

Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ....

For you .... $________

For your spouse .... $________

9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act. Also, except as stated in the next sentence, do not include any compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If you received any retired pay paid under chapter 61 of title 10, then include that pay only to the extent that it does not exceed the amount of retired pay to which you would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title. $________ $________

10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act; payments made under the Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19); payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism; or compensation, pension, pay, annuity, or allowance paid by the United States Government in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services. If necessary, list other sources on a separate page and put the total below.

	Column A	Column B
______________________	$________	$________
______________________	$________	$________
Total amounts from separate pages, if any.	+ $________	+ $________

11. **Calculate your total average monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B. $________ + $________ = $________ Total average monthly income

Part 2: Determine How to Measure Your Deductions from Income

12. **Copy your total average monthly income from line 11.** .... $________

13. **Calculate the marital adjustment.** Check one:

- ❑ You are not married. Fill in 0 below.
- ❑ You are married and your spouse is filing with you. Fill in 0 below.
- ❑ You are married and your spouse is not filing with you.

Fill in the amount of the income listed in line 11, Column B, that was NOT regularly paid for the household expenses of you or your dependents, such as payment of the spouse's tax liability or the spouse's support of someone other than you or your dependents.

Below, specify the basis for excluding this income and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page.

If this adjustment does not apply, enter 0 below.

______________________ $________

______________________ $________

______________________ + $________

Total .... $________ Copy here ➔ − ________

14. **Your current monthly income.** Subtract the total in line 13 from line 12. $ ________

15. **Calculate your current monthly income for the year.** Follow these steps:

15a. Copy line 14 here ➔ .... $ ________

Multiply line 15a by 12 (the number of months in a year). x 12

15b. The result is your current monthly income for the year for this part of the form. .... $________

16. **Calculate the median family income that applies to you.** Follow these steps:

16a. Fill in the state in which you live. ________

16b. Fill in the number of people in your household. ________

16c. Fill in the median family income for your state and size of household. .... $________
To find a list of applicable median income amounts, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

17. **How do the lines compare?**

17a. ❑ Line 15b is less than or equal to line 16c. On the top of page 1 of this form, check box 1, *Disposable income is not determined under 11 U.S.C. § 1325(b)(3).* **Go to Part 3.** Do NOT fill out *Calculation of Your Disposable Income* (Official Form 122C–2).

17b. ❑ Line 15b is more than line 16c. On the top of page 1 of this form, check box 2, *Disposable income is determined under 11 U.S.C. § 1325(b)(3).* **Go to Part 3 and fill out Calculation of Your Disposable Income (Official Form 122C–2).** On line 39 of that form, copy your current monthly income from line 14 above.

Part 3: Calculate Your Commitment Period Under 11 U.S.C. § 1325(b)(4)

18. **Copy your total average monthly income from line 11.** .... $________

19. **Deduct the marital adjustment if it applies.** If you are married, your spouse is not filing with you, and you contend that calculating the commitment period under 11 U.S.C. § 1325(b)(4) allows you to deduct part of your spouse's income, copy the amount from line 13.

19a. If the marital adjustment does not apply, fill in 0 on line 19a. .... – $________

19b. **Subtract line 19a from line 18.** $________

20. **Calculate your current monthly income for the year.** Follow these steps:

20a. Copy line 19b.. .... $________

Multiply by 12 (the number of months in a year). x 12

20b. The result is your current monthly income for the year for this part of the form. $________

20c. Copy the median family income for your state and size of household from line 16c........ $________

21. **How do the lines compare?**

❑ Line 20b is less than line 20c. Unless otherwise ordered by the court, on the top of page 1 of this form, check box 3, *The commitment period is 3 years.* Go to Part 4.

- ☐ Line 20b is more than or equal to line 20c. Unless otherwise ordered by the court, on the top of page 1 of this form, check box 4, *The commitment period is 5 years*. Go to Part 4.

Part 4: Sign Below

By signing here, under penalty of perjury I declare that the information on this statement and in any attachments is true and correct.

✘ ______________________________ Signature of Debtor 1

✘ ______________________________ Signature of Debtor 2

Date _______________ MM / DD / YYYY

Date _______________ MM / DD / YYYY

If you checked 17a, do NOT fill out or file Form 122C–2.

If you checked 17b, fill out Form 122C–2 and file it with this form. On line 39 of that form, copy your current monthly income from line 14 above.

COMMITTEE NOTE

Official Forms 122A-1, 122B, and 122C-1 are amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. ____, ___ Stat. ___. That law modifies the definition of "current monthly income" in §101(10A) and the definition of "disposable income" in §1325(b)(2) to exclude "payments made under the Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19)." Each form is modified to expressly exclude these amounts from line 10. These amendments will terminate one year after the date of enactment of the CARES Act.

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

04/20

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

1. **Debtor's name** ____

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

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

   ____
   ____
   ____
   ____
   ____

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

4. **Debtor's address**

   Principal place of business

   ____
   Number Street

   ____

   ____
   City State ZIP Code

   ____
   County

   Mailing address, if different from principal place of business

   ____
   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

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) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes .

___ ___ ___ ___

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 $2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
  - ❑ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000.
  - ❑ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ❑The debtor is a debtor as defined in 11 U.S.C. § 1182(1), and it chooses to proceed under Subchapter V of Chapter 11. If this option is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ❑ A plan is being filed with this petition.
  - ❑ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ❑ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ❑ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ❑ Chapter 12

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

If more than 2 cases, attach a separate list.

❑ No
❑ Yes. District ____________________ When ______________ Case number ______________________
MM / DD / YYYY
District ____________________ When ______________ Case number ______________________
MM / DD / YYYY

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

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

❑ No
❑ Yes. Debtor ____ Relationship ______________________
District ____ When ________________
MM / DD / YYYY
Case number, if known ____________________________

11. Why is the case filed in *this district*?

Check all that apply:

❑ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

❑ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

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

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

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

❑ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
What is the hazard? ____

❑ It needs to be physically secured or protected from the weather.

❑ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

❑ Other ____

Where is the property?____
Number Street
____
________________________________ ______ ____________
City State ZIP Code

Is the property insured?

❑ No
❑ Yes. Insurance agency ____
Contact name ____
Phone ___________________________

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

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

14. Estimated number of creditors

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

15. Estimated assets

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

16. Estimated liabilities

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

Request for Relief, Declaration, and Signatures

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

17. Declaration and signature of authorized representative of debtor

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

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

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

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

Executed on ________________
MM / DD / YYYY

✘ ______________________________ ______________________________
Signature of authorized representative of debtor Printed name

Title ______________________________

18. Signature of attorney

✗ ____ Date _______________
Signature of attorney for debtor MM / DD / YYYY

____
Printed name

____
Firm name

____
Number Street

____ __________ __________________________
City State ZIP Code

______________________________ ____________________________________
Contact phone Email address

____ __________
Bar number State

Committee Note

The form is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. ____, ___ Stat. ___. That law provides a new definition of "debtor" for determining eligibility to proceed under subchapter V of chapter 11. Line 8 of the form is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

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

04/20

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

1. **Debtor's name** ____

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

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

   ____
   ____
   ____
   ____
   ____

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

4. **Debtor's address**

   Principal place of business

   ____
   Number Street

   ____

   ____
   City State ZIP Code

   ____
   County

   Mailing address, if different from principal place of business

   ____
   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

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) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes .

___ ___ ___ ___

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

If checking chapter 11, and also seeking to proceed under Subchapter V, the second sub-option must be checked; additionally, if total aggregate noncontingent liquidated debts are less than $2,725,625, both the first and second sub-options should be checked.

Check one:

- ❑ Chapter 7
- ❑ Chapter 9
- ❑ Chapter 11. *Check **all** that apply*:
  - ❑ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this option is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ❑ The debtor is a debtor as defined in 11 U.S.C. § 1182(1), its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000, **and it chooses to proceed under Subchapter V of Chapter 11.** If this option is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ❑ A plan is being filed with this petition.
  - ❑ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ❑ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ❑ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ❑ Chapter 12

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

If more than 2 cases, attach a separate list.

❑ No
❑ Yes. District _______________ When _______________ (MM / DD / YYYY) Case number _______________
District _______________ When _______________ (MM / DD / YYYY) Case number _______________

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

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

❑ No
❑ Yes. Debtor _______________ Relationship _______________
District _______________ When _______________ (MM / DD / YYYY)
Case number, if known _______________

11. Why is the case filed in *this district*?

Check all that apply:

❑ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

❑ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

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

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

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

❑ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
What is the hazard? _______________

❑ It needs to be physically secured or protected from the weather.

❑ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

❑ Other _______________

Where is the property? _______________
Number Street
____
_______________ City   ______ State   ______ ZIP Code

Is the property insured?

❑ No
❑ Yes. Insurance agency _______________
Contact name _______________
Phone _______________

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

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

14. Estimated number of creditors

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

15. Estimated assets

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

16. Estimated liabilities

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

Request for Relief, Declaration, and Signatures

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

17. Declaration and signature of authorized representative of debtor

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

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

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

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

Executed on _______________
MM / DD / YYYY

✘ ______________________________________ ______________________________________
Signature of authorized representative of debtor Printed name

Title _________________________________

18. Signature of attorney

✘ ______________________________ Date ______________
Signature of attorney for debtor MM / DD / YYYY

____
Printed name

____
Firm name

____
Number Street

______________________________ ________ ______________
City State ZIP Code

______________________________ ______________________________
Contact phone Email address

______________________________ ________
Bar number State