

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

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**MEMORANDUM**

**TO:** Honorable Mark R. Kravitz, Chair  
Standing Committee on Rules of Practice and Procedure

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

**DATE:** May 14, 2012

**RE:** Report of the Advisory Committee on Bankruptcy Rules

**I. Introduction**

The Advisory Committee on Bankruptcy Rules met on March 29 and 30, 2012, in Phoenix, Arizona. The draft minutes of that meeting follow this report in Appendix C.

At the meeting the Advisory Committee took action on the proposed rule and form amendments that were published for comment in August 2011. Fifteen comments were submitted in response to the publication, and the Committee received testimony telephonically. The Committee considered the comments and testimony in a series of subcommittee conference calls and in discussions at the Phoenix meeting. The comments and testimony are summarized below. The Advisory Committee now seeks the Standing Committee's final approval and transmission to the Judicial Conference of the published amendments to five rules and one official form.

The Advisory Committee also took action at the spring meeting on proposed rule and form amendments that resulted from two long-term Committee projects: (1) revision of the

bankruptcy appellate rules (Part VIII of the Rules of Bankruptcy Procedure) and (2) revision of all of the official bankruptcy forms (the Forms Modernization Project). The Committee requests publication for public comment of revised Part VIII and several modernized forms for use in individual-debtor bankruptcy cases.

Other matters considered by the Advisory Committee included suggestions for rule or form amendments that were submitted by members of the bench and bar, including rule amendments proposed in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). The Committee voted to recommend several rule and form amendments in response to these suggestions.

Part II of this report discusses the action items, which are grouped into three categories: (a) matters published in August 2011 for which the Advisory Committee seeks approval for transmission to the Judicial Conference—amendments to Rules 1007(b), 5009(b), 9006, 9013, and 9014, and Official Form 7; (b) matters for which the Advisory Committee seeks approval for transmission to the Judicial Conference without publication—technical or conforming amendments to Rule 4004(c) and Official Forms 9A - 9I, 10, and 21; and (c) matters for which the Advisory Committee seeks approval for publication in August 2012—amendments to Rules 1014, 7004, 7008, 7012, 7016, 8001-8028, 9023, 9024, 9027, and 9033, and Official Forms 3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1, and 22C-2.

After discussing these action items, the report in Part III presents information about the rule and form amendments published for comment last August that the Advisory Committee is not seeking at this meeting to have approved for transmission to the Judicial Conference.

Finally, Part IV discusses the Committee's ongoing work in preparing a model chapter 13 plan with related rule amendment proposals, plans for a September mini-conference on the mortgage forms that went into effect last December, the continuing work of the Forms Modernization Project, and the Committee's decision to consider issues related to the use of electronic signatures in documents filed in the bankruptcy court.

## II. Action Items

### A. Items for Final Approval

*1. Amendments Published for Comment in August 2011. The Advisory Committee recommends that the proposed rule and form amendments that are summarized below be approved and forwarded to the Judicial Conference. It recommends that the amended form take effect on December 1, 2012.* The texts of the amended rules and form are set out in Appendix A.

**Action Item 1. Rules 1007(b)(7) and 5009(b)** involve the obligation of individual debtors in chapters 7, 11, and 13 to complete a personal financial management course as a condition of receiving a discharge in bankruptcy. Rule 1007(b)(7) currently requires the debtor to file a "statement of completion of a course concerning personal financial management, prepared as prescribed by the appropriate Official Form." That form is Official Form 23, which requires the debtor to certify completion of an instructional course in personal financial

management. Accordingly, Rule 5009(b) now requires the clerk to send notice to an individual debtor who has not filed Official Form 23 within 45 days after the first date set for the meeting of creditors. Debtors who do not file the necessary statement of completion from their course provider are not given a discharge before their cases are closed. Many of these cases are reopened later, necessitating the payment of an additional fee.

The Advisory Committee sought publication of amendments that would streamline the process of filing statements of the completion of financial management courses. The amendments remove the obligation of the debtor to file Official Form 23 if the financial management course provider has notified the court of the debtor's successful completion of the course. Rule 1007(b)(7) would be amended to authorize providers to file course completion statements directly with the court. Rule 5009(b) would be amended to direct the clerk to send notice to the debtor only if the debtor is required to file the statement and the provider has not already done so. At its June 2011 meeting, the Standing Committee approved the request for publication.

Upon publication, the Advisory Committee received five comments. Three comments expressed support for the amendments. They were submitted by Michael Shklar, Phillip Dy, and Ganna Gudkova. Two comments opposed the amendments. Jeanne E. Hovenden, an attorney in Virginia, urged that the debtor's attorney should be required to file the statement of completion. She expressed concern that allowing a financial course management provider to file the statement directly with the court may lead to a discharge even when it is not in the debtor's best interest. Because the provider is not familiar with all the circumstances of a case, the provider will not know if a particular debtor would be better served by not receiving a discharge. Raymond P. Bell, Jr., of Pennsylvania submitted a comment agreeing with Ms. Hovenden and emphasizing that the debtor's attorney or the debtor should bear responsibility for filing the statement of completion.

The Advisory Committee did not view the concern raised by the negative comments as a substantial one. As Ms. Hovenden's comment recognized, only in rare cases would a debtor want to avoid a discharge. When those cases do arise, the debtor may decline to receive a discharge in other ways. The debtor has the option of waiving the discharge under § 727(a)(10) of the Code or failing to complete plan payments under chapter 11 or 13, which would result in denial of a discharge despite the filing of a notification of course completion by the provider.

Accordingly, the Advisory Committee voted unanimously to recommend approval of the amended rules as published.

**Action Item 2. Rules 9006, 9013, and 9014** would be amended to highlight the default deadlines for the service of motions and written responses. Rule 9006, based on Civil Rule 6, contains a subsection regarding the time for service of motions. Rule 9006(d) regulates timing for any motions not addressed elsewhere in the Bankruptcy Rules or by order of the court. Unlike the civil rule, however, Rule 9006 does not indicate in its title that it addresses time periods for motions. Nor is it followed by a rule that addresses the form of motions, as is the case with the civil rule.

The Advisory Committee proposed several amendments to highlight the existence of Rule 9006(d). The title of Rule 9006 would be amended to add a reference to the "time for motion papers." This change, which is consistent with Civil Rule 6, should make it easier to find the provision governing motion practice. Coverage of subdivision (d) would be expanded to

address the timing of the service of any written response to a motion (rather than only opposing affidavits as the rule current states). This change would make the provision as inclusive as possible in order to capture differences in local motion practice. Rule 9013, which addresses the form and service of motions, would be amended to provide a cross-reference to the time periods in Rule 9006(d). This amendment is also intended to call greater attention to the default deadlines for motion practice. In addition, stylistic changes would be made to Rule 9013 to add greater clarity. Rule 9014, which addresses contested matters in bankruptcy, would similarly be amended to provide a cross-reference to the times under Rule 9006(d) for serving motions and responses.

No comment was received on these amendments. The Advisory Committee voted unanimously to recommend approval of the proposed amendments to Rules 9006, 9013, and 9014 as published.

**Action Item 3. Official Form 7** is the debtor's Statement of Financial Affairs. The form requires debtors to disclose certain payments made to or for the benefit of insiders. The current version of the form contains a definition of "insider" that differs from the Bankruptcy Code's definition of the term. As used in the form, the term includes "any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives." The Code definition of "insider" lists other qualifying relationships, including a "person in control" of a corporate debtor, but makes no reference to a five-percent shareholder. 11 U.S.C. § 101(31). Although the Code gives a nonexclusive definition of an insider, the Advisory Committee found no basis for concluding that § 101(31) provides authority for the current definition used in the form. The Code does not contain a bright-line test that invariably makes a five-percent shareholder an insider. That language was added to the form in 2000, but no explanation for the addition appears in the Committee Note, the Advisory Committee's report to the Standing Committee, or the Advisory Committee minutes.

As amended, the definition of insider in Form 7 would adhere more closely to the Code. The language regarding a five-percent shareholder of a corporate debtor would be deleted. In its place, the definition would include "any persons in control of a corporate debtor." The statutory reference following the definition would also be updated to give a pinpoint citation to the definition of insider in the Code.

Upon publication, no comment was received on this amendment. The Advisory Committee voted unanimously to recommend approval of the proposed amendment to Official Form 7 as published.

*2. Amendments for Which Final Approval Is Sought Without Publication.* **The Advisory Committee recommends that the proposed amendments that are summarized below be approved and forwarded to the Judicial Conference. It recommends that the amended forms become effective on December 1, 2012.** Because the proposed amendments are technical or conforming in nature, the Committee concluded that publication for comment is not required. The texts of the amended rules and forms are set out in Appendix A.

**Action Item 4. Rule 4004(c)(1)** would be amended to conform to the simultaneous amendment of Rule 1007(b)(7) and to state in more precise language other provisions of the subdivision.

As discussed above, the Advisory Committee is recommending that the Standing Committee forward to the Judicial Conference an amendment to Rule 1007(b)(7) that would allow providers of courses on personal financial management to notify a bankruptcy court directly that a debtor had completed the course. Notification by the provider would relieve the debtor of the obligation to file a certificate of completion. Consistent with that change, Rule 4004(c)(1)(H) would be amended to provide that the court must delay entering a discharge for a debtor who has not filed a certificate of completion only if the debtor was in fact required to do so under Rule 1007(b)(7).

The other two changes to Rule 4004(c)(1) are clarifications. One makes clear that the circumstances listed in the paragraph prevent the court from entering a discharge. The other states specifically that the prohibition on entering a discharge under subdivision (c)(1)(K) ceases when a presumption of undue hardship expires or the court concludes a hearing on the presumption.

Because the latter amendments would simply state more precisely the existing meaning of the provision and because the first one is conforming, the Committee voted unanimously to recommend that they be approved without publication.

**Action Item 5. Official Forms 9A-9I and 21** would be amended to reduce the risk that a debtor's Social Security number will be inadvertently disclosed publicly in a bankruptcy case. The Advisory Committee would add prominent warnings about proper submission of the forms, which may contain a debtor's Social Security information.

Official Form 9 is directed at creditors. A particular version of the form (denoted Form 9A through Form 9I) applies depending on the nature of the bankruptcy case, but all serve the same function. The form gives notice to potential creditors of the debtor's bankruptcy case and provides important information, such as the date of the meeting of creditors and the deadline to object to an individual debtor's discharge. The form includes identifying information to allow a recipient to determine whether it is a creditor of the debtor. For individual debtors, that identifying information includes the debtor's Social Security information. A redacted version of Form 9 is included in the court files. Official Form 21 is directed at the debtor. The form requires debtors to disclose, under penalty of perjury, their Social Security numbers. Neither the unredacted version of Form 9 sent to creditors nor Form 21 is intended to be placed on the public docket of a bankruptcy case.

The Judicial Conference's Committee on Court Administration and Case Management raised the concern that bankruptcy forms may be mistakenly filed in ways that publicly reveal debtors' private identifying information. To respond to that concern, the Advisory Committee would amend Form 9 to make clear that a creditor should not attach a copy of the form when filing a proof of claim. Stylistic changes have also been made to the form. Similarly, the Advisory Committee would add to Form 21 a prominent warning about proper submission of the form, so as to avoid its inadvertent inclusion on the court's public docket.

Because the changes to the forms do not alter their function or purpose, the Advisory Committee voted unanimously to recommend that the amended forms be approved without publication.

**Action Item 6. Official Form 10** would be amended (1) to eliminate a reference to filing a power of attorney with a proof of claim, thereby conforming to Rule 9010(c), and (2) to include statements about the attachment of required documentation for certain types of claims.

Rule 9010(c) generally requires an agent to give evidence of its authority to act on behalf of a creditor in a bankruptcy case by providing a power of attorney. This requirement, however, does not apply when an agent files a proof of claim. The Committee therefore voted unanimously to remove from the signature box of Form 10 the instruction that an authorized agent “attach copy of power of attorney, if any.”

The Committee voted unanimously at its spring 2011 meeting to include in line 7 of Form 10 statements that certain required documentation is attached. For claims secured by the debtor’s principal residence, the form would state that the Mortgage Proof of Claim Attachment—required as of December 1, 2011—is being filed with the claim. For claims based on an open-end or revolving consumer credit agreement, the form would state that the information required by Rule 3001(c)(3)(A)—scheduled to take effect on December 1, 2012—is attached.

#### **B. Items for Publication in August 2012**

**The Advisory Committee recommends that the proposed amendments that are summarized below be published for public comment.** The texts of the amended rules and official forms are set out in Appendix B.

**Action Item 7. Rule 1014(b)** would be amended to clarify the proper course of action when bankruptcy petitions involving the same or related debtors are filed in different districts. The current rule provides that, upon a motion, the court in which the first-filed petition is pending may determine—in the interest of justice or for the convenience of the parties—the district or districts in which the cases will proceed. Courts in the other districts must stay proceedings in later-filed cases until the first court makes its determination, unless that court orders otherwise. By default, the later cases are therefore stayed while the venue question is pending before the first court.

The Advisory Committee voted to seek publication of an amendment to Rule 1014(b) that alters this default requirement. The amendment provides that proceedings in subsequently filed cases are stayed only upon order of the court in which the first-filed petition is pending. This change is intended to prevent disruption of the other cases unless there is a judicial determination that a stay of a related case is needed while the first court makes its venue determination. The amendment will also clarify who should receive notice of the hearing on the venue motion by incorporating by reference the entities entitled to notice under Rule 2002(a). In addition, stylistic changes have been made to the rule.

**Action Item 8. Rule 7004(e)** would be amended to change the time in which a summons remains valid after it is issued. The amendment reduces that period from fourteen days to seven days. This change is intended to ensure that a defendant has sufficient time to respond to a complaint in bankruptcy litigation. The Civil Rules and Bankruptcy Rules use different methods to calculate a defendant’s time to respond to a complaint. Under the Civil Rules, the defendant’s time to respond begins when the summons and complaint are served. The Bankruptcy Rules, however, calculate the defendant’s response time from the date the summons is issued. Although Rule 7012(a) of the Bankruptcy Rules gives a defendant (other than a United States

officer or agency) thirty days to answer a complaint, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond in a bankruptcy proceeding.

Concluding that a seven-day window of time is sufficient for service of the summons, the Advisory Committee voted unanimously to seek publication of an amendment to shorten the period of time in which a summons remains valid. The amendment is intended to encourage prompt service after issuance of a summons.

**Action Item 9. Rules 7008, 7012, 7016, 9027, and 9033** would be amended to respond to the Supreme Court's recent decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). In *Stern*, the Court held that a non-Article III bankruptcy judge could not enter final judgment on a debtor's common law counterclaim brought against a creditor of the bankruptcy estate. Although the Judicial Code, 28 U.S.C. § 157(b), deemed the counterclaim a "core" proceeding that a bankruptcy judge could hear and determine, the Court found Congress's assignment of final adjudicatory authority to the bankruptcy judge in the proceeding to be unconstitutional.

The Bankruptcy Rules follow the Judicial Code's division between core and non-core proceedings. The current rules contemplate that a bankruptcy judge's adjudicatory authority is more limited in non-core proceedings than in core proceedings. For example, parties are required to state whether they do or do not consent to final adjudication by the bankruptcy judge in non-core proceedings. There is no comparable requirement for core proceedings. *Stern* has introduced the possibility, however, that a proceeding defined as core under the Judicial Code may nevertheless lie beyond the constitutional power of a bankruptcy judge to adjudicate finally. Accordingly, a proceeding could be "core" as a statutory matter but "non-core" as a constitutional matter.

The Advisory Committee voted unanimously to seek publication of amendments to the Bankruptcy Rules that address this concern. The proposed amendments will alter the Bankruptcy Rules in three respects. First, the terms core and non-core will be removed from Rules 7008, 7012, 9027, and 9033 to avoid possible confusion in light of *Stern*. Second, parties in all bankruptcy proceedings (including removed actions) will be required to state whether they do or do not consent to entry of final orders or judgment by the bankruptcy judge. Third, Rule 7016, which governs pretrial procedures, will be amended to direct bankruptcy courts to decide the proper treatment of proceedings.

These amendments are not intended to take a position on the question whether party consent is sufficient to permit a bankruptcy judge to enter final judgment in a proceeding that would otherwise lie beyond the judge's adjudicatory authority. Instead, the proposed changes to the Bankruptcy Rules are designed to frame the question of adjudicatory authority and allow the bankruptcy judge to determine the appropriate course of action. The court must decide whether to hear and finally adjudicate the proceeding, whether to hear it and issue proposed findings and conclusions, or whether to take some other action.

**Action Item 10. Rules 8001-8028** (Part VIII of the Bankruptcy Rules) are the proposed revision of the bankruptcy appellate rules. They result from a multi-year project to bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure; to incorporate a presumption favoring the electronic transmission, filing, and service of court documents; and to adopt a clearer style. At the outset of the project, the Committee hosted two mini-conferences on the subject of the bankruptcy appellate rules. Judges, lawyers, court

personnel, and academics who had substantial experience with bankruptcy appeals attended. Subsequent drafting, review, and refinement of the proposed rules received the benefit of input from the Appellate Rules Committee and its reporter, Professor Struve. The Committee also incorporated style suggestions of the Standing Committee's style consultant, Professor Kimble.

The Advisory Committee presented the first half of the Part VIII revision (Rule 8001-8012) to the Standing Committee at its January 2012 meeting for preliminary review. The Committee later made revisions to the draft in response to the Standing Committee's comments.

The Advisory Committee unanimously approved the entire draft of revised Part VIII at its spring meeting and approved some additional revisions by a later email vote. It now requests approval of the publication of revised Part VIII for public comment in August. The text of the proposed rules and their committee notes are set out in Appendix B.2.

As the Committee explained in January, the revision of Part VIII is comprehensive. Existing rules have been reorganized and renumbered, some rules have been combined, and provisions of other rules have been moved to new locations. Much of the language of the existing rules has been restyled. Because of the comprehensive nature of the proposed revision, it is not possible to present the amendments in a redlined version that points out changes to the existing rules. Nor can the proposed revision be presented in a comparative format like the one used for the restyled Evidence Rules.

This part of the report instead discusses substantive changes that were made to the first half of the Part VIII rules after the January meeting, and then, following the same approach as in the Committee's last report, it addresses individually the rules not previously presented to the Standing Committee (Rules 8013-8028). For each rule, the report notes significant changes from the existing Bankruptcy Rules and decisions to depart from the Appellate Rules.

Rule 8001 (Scope of the Part VIII Rules; Definition of "BAP"; Method of Transmission). In response to comments at the Standing Committee meeting, the Advisory Committee revised this rule to eliminate the definitions of "appellate court" and "transmit." Prior drafts of Part VIII used the term "appellate court" to mean only a district court or BAP. Some members of the Standing Committee pointed out that this narrow definition of "appellate court," which excludes courts of appeals, would be confusing to a reader who did not first consult Rule 8001. The proposed rules now refer to all courts by name: bankruptcy court, district court, BAP, and court of appeals. Because the term "appellate court" is no longer used, its definition in Rule 8001 was removed. Due to the repeated references to "district court or BAP," the acronym for bankruptcy appellate panel, well known by bankruptcy judges and lawyers, was retained, and its definition remains in this rule.

The Committee changed what had been a definition of "transmit" in this rule to a provision that directly addresses the method of transmitting documents. This change responds to the concern raised at the Standing Committee meeting about treating only in a definition the important presumption favoring filing, serving, and sending documents by electronic means. The title of this rule has also been revised to highlight the fact that it addresses the method of transmission. The presumption in favor of electronic transmission now includes an exception for pro se individuals.

Rule 8007 (Stay Pending Appeal; Bonds; Suspension of Proceedings). The Committee corrected the omission of a reference to the court of appeals in subdivision (c).



Rule 8010 (Completion and Transmission of the Record). The Committee made several changes to the draft of this rule after consulting with clerks of bankruptcy courts, the clerk of a BAP, and representatives of the Administrative Office of the U.S. Courts. These sources advised the Committee that court reporters should be required to file documents only in a bankruptcy court and that all duties associated with preparing and filing transcripts should be carried out by reporters and transcription services, not the clerk's office.

The proposed rule now clarifies that in courts that record proceedings without a reporter present in the courtroom, the term "reporter" includes the person or service designated by the court to transcribe the recording. Unlike FRAP 11, proposed Rule 8010 does not require the reporter to send anything to an appellate court. And in a change from current bankruptcy practice, the clerk of the appellate court will no longer docket the appeal when the complete record is received. Docketing will occur upon receipt of the notice of appeal (proposed Rules 8003(d) and 8004(c)). The appellate-court clerk will still provide notice to the parties of the date on which the transmission of the record was received, because under proposed Rule 8018(a) that date generally commences the briefing schedule.

Rule 8013 (Motions; Intervention). In a change from current bankruptcy practice, the proposed rule does not permit briefs to be filed in support of or in response to motions. Instead, like the practice under FRAP 27, legal arguments must be included in the motion or response.

Proposed subdivision (g) permits motions for intervention in a bankruptcy appeal pending in a district court or BAP. The current Part VIII rules do not address intervention, and the appellate rules provide for intervention only with respect to the review of agency decisions. Someone seeking to intervene in a bankruptcy appeal must explain whether intervention was sought in the bankruptcy court and why intervention is being sought at the appellate stage.

Rule 8014 (Briefs). Proposed subdivision (a)(6) regarding the statement of the case adopts the language of the proposed amendment of FRAP 28(a)(6) for which the Appellate Rules Committee is seeking final approval at this meeting. In a change from existing bankruptcy practice, proposed subdivision (a)(7) would require appellants' and appellees' briefs to contain a summary of the argument. This requirement is consistent with current FRAP 28(a)(8).

The proposed rule departs from the requirements of FRAP 28 by not including provisions regarding references to parties and references to the record. The Committee concluded that this level of detail in the bankruptcy appellate rules is unnecessary.

Subdivision (f) adopts the provision of FRAP 28(j) regarding the submission of supplemental authorities. Unlike the FRAP provision, the proposed rule imposes a definite time limit (seven days) for any response, unless the court orders otherwise.

Rule 8015 (Form and Length of Briefs; Form of Appendices and Other Papers). The proposed rule is modeled on FRAP 32. The title was changed to call attention to the fact that this rule governs the length of briefs. Unlike FRAP 32(a)(2), subdivision (a)(2) of the proposed rule does not prescribe colors for brief covers.

Subdivision (a)(7) decreases the length of principal and reply briefs currently permitted by Rule 8010. This change imposes on briefs filed in a district court or BAP the same page limits that apply to briefs filed in a court of appeals.

Rule 8016 (Cross-Appeals). This provision is new to Part VIII. It is modeled on FRAP 28.1.

Rule 8017 (Brief of an Amicus Curiae). The current Part VIII rules do not provide for amicus briefs. The proposed rule is modeled on FRAP 29. Unlike FRAP 29(a), subdivision (a) of this rule permits the court to request amicus participation.

Rule 8018 (Serving and Filing Briefs; Appendices). The proposed rule continues the existing bankruptcy practice of allowing the appellee to file a separate appendix. It differs in this respect from FRAP 30, which requires the filing of a single appendix by all parties.

The time periods for the appellant and appellee to file their initial briefs are lengthened from 14 to 30 days. For the appellant, that period will still be shorter than the 40-day period prescribed by FRAP 31.

Rule 8019 (Oral Argument). Subdivision (a) alters existing Rule 8012 by (1) authorizing the court to require the parties to submit a statement about the need for oral argument and (2) permitting statements to explain why oral argument is not needed, rather than only why it should be allowed. The proposed rule tracks FRAP 34(a)(1).

Subdivision (f) differs from FRAP 34(e) by giving the court discretion, when the appellee fails to appear for oral argument, either to hear the appellant's argument or postpone argument.

Rule 8020 (Fivolous Appeal and Other Misconduct). Subdivision (a) of the proposed rule is derived from existing Rule 8020, which in turn is modeled on FRAP 38. Subdivision (b) is derived from FRAP 46(c). It expands the FRAP provision to apply to misconduct by parties as well as by attorneys.

Rule 8021 (Costs). FRAP 39 requires both the court of appeals and the district court to be involved in the taxing of costs. The court of appeals fixes maximum rates for producing copies of documents, and the clerk of the court of appeals prepares and certifies an itemized statement of costs for insertion in the mandate. Additional costs on appeal are taxable in the district court. The proposed rule, by contrast, is intended to continue the practice under current Rule 8014 of giving the bankruptcy clerk the entire responsibility for taxing the costs of appeal.

Subdivision (b) adds a provision regarding the taxing of costs against the United States. This provision, which is not included in current Rule 8014, is derived from FRAP 39(b).

Rule 8022 (Motion for Rehearing). Subdivision (a)(1) retains the requirement of current Rule 8015 that in all cases parties must file a motion for rehearing within 14 days after the judgment is entered. It differs from FRAP 40(a)(1), which allows 45 days for filing the motion in a civil case if the United States is a party.

The provision in existing Rule 8015 that specifies when the time for appeal to the court of appeals begins to run is not retained because the matter is addressed by FRAP 6(b)(2).

Rule 8023 (Voluntary Dismissal). The provision of current Rule 8001(c)(1) for dismissal by the bankruptcy court prior to the docketing of the appeal has been omitted. Under

the proposed rules, appeals would be docketed shortly after the notice of appeal is filed—a period likely to be especially short if the notice of appeal is transmitted electronically. The Committee therefore thought it unlikely that a voluntary dismissal of the appeal would be sought after the appellant filed the notice of appeal but before the appeal had been docketed. It noted, however, that FRAP 42 has a provision for dismissal by the district court prior to docketing, even though docketing under FRAP 12 also occurs upon receipt by the circuit clerk of the notice of appeal (and docket entries).

FRAP 42(b) provides that the circuit clerk “may” dismiss an appeal if the parties (1) file a signed dismissal agreement specifying how costs are to be paid and (2) pay any fees that are due. The proposed rule requires the clerk of the district court or BAP to dismiss under those circumstances. That requirement is consistent with current Rule 8001(c)(2).

Rule 8024 (Clerk’s Duties on Disposition of the Appeal). The only change from existing Rule 8016, other than stylistic ones, is the recognition that in some cases no original documents may have been transmitted to the appellate court.

Rule 8025 (Stay of District Court or BAP Judgment). The proposed rule is derived from current Rule 8017. Only subdivision (c) is new. It provides for the stay of a bankruptcy court’s order, judgment, or decree that is affirmed on appeal for the duration of any stay of the appellate judgment.

Rule 8026 (Rules by Circuit Councils and District Courts; Procedure When There Is No Controlling Law). The only changes from current Rule 8018 are stylistic.

Rule 8027 (Mediation). This rule is new and has no counterpart in the Appellate Rules. It provides that if a district court or BAP has a mediation procedure that is applicable to bankruptcy appeals, the clerk must advise the parties—promptly after the docketing of the appeal—that the procedure applies, what its requirements are, and how the procedure affects the time for filing briefs in the appeal.

Rule 8028 (Suspension of Rules in Part VIII). The proposed rule provides a more expansive list of rules that may not be suspended than either current Rule 8019 or FRAP 2.

Deletion of Current Rule 8013. The proposed Part VIII rules do not include a rule similar to current Rule 8013 (Disposition of Appeal; Weight Accorded Bankruptcy Judge’s Findings of Fact). The Committee concluded that no rule is needed to specify the actions that a district court or BAP may take (affirm, modify, reverse, or remand with instructions) in ruling on bankruptcy appeals. It further concluded that the remainder of the rule—prescribing the weight to be accorded the bankruptcy court’s findings of fact—duplicates Rule 7052, which applies in adversary proceedings and is made applicable to contested matters by Rule 9014. The Appellate Rules do not contain a similar rule. The Committee’s decision not to include in revised Part VIII a rule similar to current Rule 8013 is not intended to change existing law. It merely reflects a determination that the rule is unnecessary.

**Action Item 11. Rules 9023 and 9024** would be amended to refer to the procedure in proposed new Rule 8008 governing indicative rulings. Unlike the Civil and Appellate Rules, the Bankruptcy Rules would include a single rule prescribing the procedure for indicative rulings in both the bankruptcy and appellate courts. Proposed Rule 8008 would govern the issuance of

indicative rulings by bankruptcy judges and the corresponding procedures applicable in district courts and bankruptcy appellate panels. In order to remind litigants who file postjudgment motions of the possibility of seeking an indicative ruling from a bankruptcy court that lacks jurisdiction to grant relief due to the pendency of an appeal, the Committee voted at its fall 2008 meeting to amend Rules 9023 and 9024 to add a cross-reference to Rule 8008. The Committee delayed seeking publication of these proposed amendments until the completion of the Part VIII revision project.

**Action Items 12-14. Initial revised forms for individual debtors.**

The nine forms proposed for publication in these action items are the initial products of the Forms Modernization Project or FMP, a multi-year endeavor of the Advisory Committee, working in conjunction with the Federal Judicial Center and the Administrative Office. The dual goals of the FMP are to improve the official bankruptcy forms and to improve the interface between the forms and available technology. The judiciary is in the process of developing “the next generation” of CM/ECF (NextGen), and the modernized forms are being designed to use enhanced technology that will become available through NextGen. From a forms perspective, the major change in NextGen will be the ability to store all information on forms as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose.

The FMP made a preliminary decision that the debtor forms for individuals and entities other than individuals should be separated. There is a greater need for the forms submitted by individuals to be less technical, because individuals are generally less sophisticated than other entities and because individuals may not have the assistance of counsel. Accordingly, the forms for individual debtors are designed to use language more common in ordinary conversation, to employ more intuitive layouts, and to include both clearer instructions, examples within the forms, and more extensive separate instruction sheets.

This approach in form drafting was followed in the new forms adopted in connection with proofs of claim for certain mortgages in chapter 13 cases—Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2)—that went into effect on December 1, 2011. The format of these new forms has generally been well accepted.

The nine forms now being submitted for publication are among those that an individual debtor would file at the outset of a case.

Before adoption by the Advisory Committee, drafts of all of the individual debtor forms were circulated to organizations representing a range of users and to other reviewers. A concern expressed by some of the user groups was that the new format resulted in forms of greater length, creating additional difficulty in locating the information needed by the users. This problem would be addressed by allowing extraction of data from the forms, which could be reported in formats tailored to the users’ needs, but the availability of such access depends in part on the timing of the development of NextGen, which is not certain.

Accordingly, the Advisory Committee has suggested an incremental approach. The nine forms now being proposed for publication—the fee waiver and installment fee forms, the income and expense forms, and the means test forms—reflect the FMP approach to form-drafting without imposing major changes in utility. These particular forms make no change in the substantive content and simply replace existing forms. They are not significantly longer than the

forms they replace, they all involve the debtors' income and expenses, and they are employed by a range of users: the courts, U.S. Trustees, and case trustees, for varied purposes. Their publication and, if adopted, their use, will provide a useful gauge of the effectiveness of the FMP approach.

The text of the nine new forms is set out in Appendix B.3 to this report. The separate instructions for the forms are also included, even though the Advisory Committee does not anticipate requesting that the instructions be approved as Official Forms, and debtors are instructed not to file the instructions with the forms. The inclusion of the instructions with the published forms is to illustrate the manner in which the new forms will be presented to debtors. Setting out detailed instructions on a separate document will reduce the need for lengthy instructions in the forms themselves.

### **Action Item 12. Official Forms 3A and 3B**

These forms both deal with payment of the filing fee for an individual's bankruptcy case, and replace current Official Forms 3A and 3B. Form 3A is the application for paying the filing fee installments; Form 3B is the application for waiver of the filing fee in a chapter 7 case. Because these forms are most frequently completed by unrepresented debtors, the Advisory Committee concluded that the additional clarity of the FMP approach may be of particular value here. The only changes in Form 3A are stylistic, consistent with the overall approach of the project.

Official Form 3B also includes three technical changes. First, Line 1 of the form asks the size of the debtor's family. Because the debtor's dependents are now proposed to be listed in revised Official Form 6J, rather than in Official Form 6I, as done presently, the reference to the number of dependents changed from Schedule I to Schedule J. Second, consistent with the Judicial Conference Interim Procedures For Waiver of Chapter 7 Fees, proposed Official Form 3B specifies that non-cash governmental assistance (such as food stamps or housing subsidies) should not be included in stating the debtor's income level for purposes of determining eligibility for a fee waiver, although it continues to be reported for purposes of determining the debtor's ability to pay the filing fee. Third, the declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 19. That form must be completed and signed by the BPP, and filed with each document for filing prepared by a BPP.

### **Action Item 13. Official Forms 6I and 6J**

Official Forms 6I and 6J—usually referred to as Schedules I and J—set out the income and expenses of an individual debtor. In addition to the stylistic changes made as part of the Forms Modernization Project, the revised versions of the forms contain several changes intended to provide more accurate and useful information.

The revised forms address the situation of a debtor who lives with and pools assets with other people who are not related by blood or marriage to debtor. Schedule I now includes as income any contributions made by someone else to the expenses listed on Schedule J, and the debtor is instructed to include contributions from an unmarried partner, members of the debtor's household, dependents, roommates, and other friends or relatives.

Revised Schedule J now requests separate information on dependents who live with the debtor, dependents who live separately, and other members of the household.

In chapter 13 cases, revised Schedule J asks for expenses at two different points in time—the date the debtor files bankruptcy (Column A) and the date a proposed 13 plan is confirmed (Column B). This allows Schedule J to state what the debtor’s expenses will be as a result of the confirmed plan, thus facilitating a determination of the plan’s feasibility.

A new line 23 is added to Schedule J, setting out a calculation of the debtor’s monthly net income.

#### **Action Item 14. Official Forms 22A-1, 22A-2, 22B, 22C-1, 22C-2**

These forms are used in determining a debtor’s current monthly income under 11 U.S.C. § 110(10A), and—in chapter 7 and 13 cases—in determining income remaining after deduction of expenses specified in statutes governing those chapters. The forms for chapter 7 and 13 cases are generally referred to as the “means test” forms. In Official Form 22B, the statement of current monthly income in chapter 11 cases filed by individuals, the only changes are stylistic, conforming to the overall approach of the Forms Modernization Project. For chapters 7 and 13, however, the means test forms have been revised in several additional ways.

First, and most significantly, the means test forms have been divided into two separate forms: one for income (Official Form 22A-1 in chapter 7, Official Form 22C-1 in chapter 13), and the other for expenses (Official Form 22A-2 in chapter 7, Official Form 22C-2 in chapter 13). Because expense information is only required of debtors whose currently monthly income exceeds the applicable state median income, most debtors will not have to complete the expense forms, thereby reducing the volume of the filed forms.

Second, in both the chapter 7 and chapter 13 forms, the deduction for cell phone and internet expenses is modified to reflect more accurately the IRS allowances incorporated by the Bankruptcy Code. Under the applicable IRS “other necessary expense” standard, cell phone and other optional telecommunication services expenses are deductible not only if necessary for the health and welfare of the debtor and the debtor’s dependents, as stated in the current forms, but also if necessary for the production of income if not reimbursed by the debtor’s employer or deducted by the debtor in calculating net self-employment income. Revised Official Form 22A-2 (in line 23) and Official Form 22C-2 (in line 19) make this correction. On the other hand, unlike their counterparts in the current forms, these lines do not permit deduction of basic home internet expenses, because under IRS guidelines adopted in 2011, these expenses are included in the Local Standards for housing and utilities.

Third, line 60 of current Official Form 22C has not been repeated in Official Form 22C-2. Line 60 allows debtors to list, but not deduct from income, “Other Necessary Expense” items that are not included within the categories specified by the Internal Revenue Service. Because debtors are separately allowed to list—and deduct—any expenses arising from special circumstances, former Line 60 was rarely used.

Finally, Form 22C-2 also reflects the Supreme Court’s decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010). Adopting a forward-looking approach, the Court stated in *Lanning* that the calculation of a chapter 13 debtor’s projected disposable income under 11 U.S.C. § 1325(b)

requires consideration of changes to income or expenses that, at the time of plan confirmation, have occurred or are virtually certain to occur. Such changes could result in either an increased or decreased projected disposable income. Because only debtors whose annualized current monthly income exceeds the applicable median family income have their projected disposable income determined by the information provided on Official Form 22C-2, only these debtors are required to provide the information about changes to income and expenses on Official Form 22C-2. Part 3 of Official Form 22C-2 provides for the reporting of those changes.

### **III. Items Published in August 2011 for which Final Approval Is Not Being Sought**

**A. Rule 3007(a).** An amendment of this rule, which addresses the time and manner of serving objections to claims, was published for public comment last August. The Advisory Committee proposed the amendment in response to two suggestions submitted on behalf of the Administrative Office's Bankruptcy Judges Advisory Group. The first suggestion proposed that Rule 3007(a) be amended to permit the use of a negative notice procedure for objections to claims. The second suggestion sought clarification of the proper method of serving objections to claims.

To accomplish these goals, the preliminary draft of amended Rule 3007(a) would have no longer required notice of a claim objection to be provided at least 30 days before "the hearing" on the objection. Instead, it would have required notice of the objection to be provided at least 30 days before "any scheduled hearing on the objection or any deadline for the claimant to request a hearing." It also would have specified how and on whom an objecting party must serve the objection and notice of objection.

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

At its spring meeting, the Advisory Committee concluded that the proposed amendment to Rule 3007(a) should be withdrawn for the time being so that it can be considered along with rule amendments that are being studied in connection with the drafting of a national chapter 13 form plan. Under consideration are possible rule amendments that would permit the allowed amount of certain types of claims to be determined in a chapter 13 plan, as well as by motion or claim objection. The Committee decided that the method of service on a claimant should be the same regardless of the method used for seeking the determination of a claim amount. Rather than proceed with the published amendment of Rule 3007(a), which generally allows service by mail on the person designated on the proof of claim, the Committee voted to postpone further action on the amendment of Rule 3007(a) until a unified approach to the service of claim objections and claim modifications in plans can be proposed. The Committee will also give further consideration to the appropriateness of a negative notice procedure for claim objections.

**B. Official Form 6C.** The proposed amendment to Form 6C—the debtor's schedule of property claimed as exempt—was intended to reflect the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010), by providing an option for the debtor to state the value of the claimed exemption as the "full fair market value of the exempted property." The *Schwab* opinion explained that if the debtor used the quoted language to claim an exemption and "the trustee fails to object, or . . . the trustee objects and the objection is overruled, the debtor will be entitled to exclude the full value of the asset." 130 S. Ct. at 2668.

The proposed amendment of Schedule C prompted seven written comments and testimony during a telephonic hearing.

Opponents—including representatives of the chapter 7 and chapter 13 trustee associations—asserted that the proposed amendment would encourage debtors to claim the full market value when invoking exemptions that are capped at a dollar amount. This, they said, would lead to a “plethora of objections” and increased gamesmanship in claiming exemptions. The trustees stated that they would be forced to spend additional time analyzing exemption claims and litigating claims to exempt the full market value.

Supporters of amendment—including the National Association of Consumer Bankruptcy Attorneys—disputed the trustees’ prediction of a “plethora of objections” and contended that the amendment is consistent with the *Schwab* decision. The supporters asserted that debtors need to know promptly whether property claimed exempt is exempt and thus is available for the debtor’s use, sale, or other disposition.

The Advisory Committee considered the comments and testimony, debated the merits of the proposed amendment, and explored the alternative of rules amendments to require trustees to make prompt decisions on abandonment of property. The Committee concluded, however, that potential rule amendments would be inconsistent with either § 554 of the Bankruptcy Code or the *Schwab* decision.

After a further discussion, the Advisory Committee voted, with two dissents, to withdraw the Form 6C amendment and refer the revision of Schedule C to the Forms Modernization Project. The Committee’s decision was based on two factors. First, debtors are incorporating into existing Schedule C the language suggested by the Supreme Court in *Schwab*. The need to amend the form in response to that decision therefore appears to be less compelling than the Committee initially thought. Second, courts are divided on whether it is always improper for a debtor to claim an exemption of full fair market value when the exemption in question is capped at a specific dollar amount. The Committee decided that any amendment of Schedule C should await further development of the case law. The recommendation to withdraw the published amendment is therefore intended to maintain the status quo and does not signal the Committee’s rejection of the permissibility of claiming as exempt the full fair market value of property.

**C. Official Forms 22A and 22C.** The proposed amendments to both Forms 22A and 22C reflected changes in the IRS collection financial standards regarding telecommunication expenses, and an additional amendment to Form 22C responded to the Supreme Court’s decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010).

Two comments were submitted regarding the proposed *Hamilton v. Lanning* amendment. The first, from California attorney Peter M. Lively, objected to the amendment on the ground that its one-year period for reporting expected changes in income or expenses conflicts with a Ninth Circuit decision. The other comment was from attorney Henry J. Sommer, writing on behalf of the National Association of Consumer Bankruptcy Attorneys. He stated that the proposed amendment is unnecessary and confusing, since changes in income and expenses in the year after filing are already required to be reported on Schedules I and J and can be addressed by motions to modify a confirmed Chapter 13 plan.

The Committee concluded that neither comment provided grounds for reconsidering the proposed amendment of Form 22C. The Committee found that the proposed amendment, by



requiring debtors to provide information about changes in income and expenses, does not prevent the debtor from arguing that there is no applicable commitment period if the debtor has no projected disposable income. In this respect, the proposed revised form continues to apply the rule that the applicable commitment period is determined by the debtor's current monthly income, pursuant to 11 U.S.C. § 1325(b)(4), rather than by the debtor's projected disposable income, determined under 11 U.S.C. § 1325(b)(2).

The Committee was also unpersuaded by Mr. Sommer's comments. Schedules I and J report different income and expenses than those called for in calculating projected disposable income under Form 22C. And modification of a confirmed plan is not an appropriate method for dealing with changes of the kind involved in *Lanning*. Proper treatment of projected disposable income is a requirement for plan confirmation in the first instance.

Despite its continued support for the published amendments to Forms 22A and 22C, the Committee is not seeking final approval of them at this meeting. In order to avoid having the previously published amendments take effect in 2012 and then reformatted versions of the forms designed by the Forms Modernization Project take effect in 2013, the Advisory Committee incorporated all of the proposed amendments to the two forms into the "modernized" forms that the Committee is seeking to have published this summer.

#### **IV. Information Items**

**A. Official form for chapter 13 plan and related amended rules.** During the past year, on the basis of suggestions received from a bankruptcy judge and an organization of state attorneys general, the Advisory Committee has been exploring the adoption of an official form for chapter 13 plans. The adoption of an official form would have several benefits. First, it would make more uniform the practice of plan confirmation, which now varies substantially among the districts. Many districts require the use of local model plans containing distinctive features. These differences impose substantial costs on both on creditors with regional or national businesses and on software vendors, whose products must accommodate all of the local variations. Second, a national form would also allow for earlier resolution of differences in interpretation. And finally, a national form could provide a specific location within the form for any variances from its standard provisions, allowing for easier review by the court, trustees, and creditors, consistent with the Supreme Court's direction in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (March 23, 2010), that bankruptcy judges independently review chapter 13 plans for conformity with applicable law.

A survey of the bankruptcy bench established widespread support for a national form plan, and the Advisory Committee has established a working group to develop one. The working group has discussed an initial draft and expects soon to have a draft that can be informally circulated for comments. Additionally, in the course of the group's work, it became apparent that the effectiveness of a national form plan would depend, to a large extent, on amendments to the Bankruptcy Rules harmonizing practice among the local courts and eliminating ambiguity about the extent to which official forms may be modified locally. The working group has drafted several such amendments, governing the need to file proofs of secured claims, establishing shortened filing deadlines, and clarifying procedures for treatment of claims, which the Advisory Committee will consider in the coming year. The Committee expects to be able to propose an official form for a Chapter 13 plan, with accompanying rule amendments, during 2013.

**B. September mini-conference on the new mortgage forms.** The Advisory Committee is planning a mini-conference on the effectiveness of new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2), which were designed to implement the new mortgage claim disclosure requirements in Rules 3001(c) and 3002.1. The rules and forms went into effect on December 1, 2011.

When the Advisory Committee gave final approval to the forms at the spring 2011 meeting, it considered written comments and hearing testimony that suggested the need for a detailed loan history, rather than just an itemization of prepetition fees, expenses, and charges. It also considered questions about the sufficiency of the information sought regarding escrow accounts. The Committee concluded that it was important for the forms to go into effect simultaneously with the new rules, which it had approved the year before, but that it would be useful to convene a mini-conference on the effectiveness of the forms after a period of experience with them.

The purpose of the mini-conference is to ensure that the new forms are enabling debtors and trustees to obtain the information they need to deal properly with home mortgages in bankruptcy, particularly in chapter 13 cases, and that the disclosure requirements are not imposing an undue burden on mortgage creditors or costs on the debtors not commensurate with the benefits. The specific goals of the mini-conference are to learn how the forms are operating in actual practice and to determine whether any modifications are needed.

The mini-conference will be held on September 19, 2012, in conjunction with the Advisory Committee's fall meeting in Portland, Oregon. Home mortgage servicers and attorneys (or others who are actually filing the documents), consumer debtor attorneys, chapter 13 trustees, bankruptcy judges, and clerks of court will be invited to attend.

**C. Forms Modernization Project.** As discussed above, the Forms Modernization Project began its work by revising forms used in cases of individual debtors, and several of these forms are now being recommended for publication and comment. The FMP's work on all of the individual debtor forms is now nearly complete, and the FMP has begun revision of forms for non-individual cases.

As with its initial work, the FMP discussed the format of non-individual forms with a variety of professionals who use them, including attorneys, software providers, claims managers, trustees, and staff of the United States Trustee Program. These discussions resulted in the FMP's adoption of several goals for revision of the non-individual forms. Among the principal goals that emerged from these discussion were:

- revising the forms to eliminate unnecessary requests for information (such as questions relevant only in the cases of individuals),
- seeking information in the form that businesses commonly keep their financial records, and
- providing clear direction for reporting information that departs from the data maintained according to standard accounting practices.

Drafting of revised non-individual forms has begun, and the initial drafts will be tested and modified, as necessary, before being recommended for publication. In this process, the FMP continues to have the assistance of its forms consultant.

Through the FMP's work, the Advisory Committee expects to recommend adoption of the remaining revised forms for both individual and non-individual cases.

**D. Electronic signatures.** As part of the Forms Modernization Project, the Advisory Committee has considered the use of electronic signatures. Two initial questions were presented. The first is whether and under what circumstances bankruptcy courts should accept for filing documents signed electronically without requiring the retention of a paper copy containing a "wet" or original signature. If retention of an original signature is required, the second question is who should be required to maintain the paper document bearing the signature.

The Advisory Committee was presented with three alternative approaches in response. One is set out in a model local rule adopted by several bankruptcy courts, which requires retention of original documents with wet signatures, and imposes the duty of retention on the entity—most commonly the debtor's attorney—that files the document electronically. Another approach, used in at least two other bankruptcy courts, does not require retention of paper documents with original signatures. Instead, these courts require that, for any electronically-filed document signed by someone other than the filing attorney, the document be accompanied by a declaration of authenticity wet-signed by the non-attorney. That declaration is scanned and maintained, in electronic form, by the clerk's office. A third approach is taken by the Internal Revenue Service, pursuant to 26 U.S.C. § 6061(b)(2), which validates electronic signatures on tax returns. The IRS uses personal identification numbers as electronic signatures, with no requirement for any original wet-signed document.

The Advisory Committee has been informed that, although the issue will arise in the context of the procedures of other federal courts, it would be appropriate for electronic signatures to be addressed initially in the bankruptcy context. Accordingly, the Advisory Committee will continue to examine the issue with the goal of recommending an amendment to the bankruptcy rules that establishes a uniform procedure for electronic signatures.

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# APPENDIX A-1

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

For Final Approval and Transmittal to the Judicial Conference

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

\* \* \* \* \*

1 (b) SCHEDULES, STATEMENTS, AND OTHER  
2 DOCUMENTS REQUIRED.

3 \* \* \* \* \*

4 (7) Unless an approved provider of an instructional  
5 course concerning personal financial management has notified the  
6 court that a debtor has completed the course after filing the  
7 petition:

8 (A) An individual debtor in a chapter 7 or  
9 chapter 13 case shall file a statement of completion of ~~the a~~ course  
10 concerning personal financial management, prepared as prescribed  
11 by the appropriate Official Form; ~~and~~

12 (B) An individual debtor in a chapter 11

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

\*\* In addition to the amendment of Rules 1007(b) and 5009(b), Official Form 23 would be amended to clarify that the debtor should not file the form if the provider of a personal financial management course has already notified the court of the debtor's completion of the course.

13 case shall file the statement in a chapter 11 case in which if  
14 § 1141(d)(3) applies.

15 \* \* \* \* \*

### COMMITTEE NOTE

Subdivision (b)(7) is amended to relieve an individual debtor of the obligation to file a statement of completion of a personal financial management course if the course provider notifies the court that the debtor has completed the course. Course providers approved under § 111 of the Code may be permitted to file this notification electronically with the court immediately upon the debtor's completion of the course. If the provider does not notify the court, the debtor must file the statement, prepared as prescribed by the appropriate Official Form, within the time period specified by subdivision (c).

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**11-BK-001. Michael C. Shklar** (Elliott Jasper Auten Shklar & Wellman-Ally LLP). The proposed amendment relieves the debtor of the obligation to file Form 23 if the counseling agency files proof of completion of the financial management course. It would make sense if the rule also expressly permitted the debtor or debtor's counsel to file the certificate of completion in lieu of Form 23.

**11-BK-002. Phillip Dy.** The amended rule will be very helpful. Financial management course providers should assist debtors with their cases.

**11-BK-003. Ganna L. Gudkova.** I support the amendment to Rule 1007 and the related amendment to Rule 5009.

**11-BK-008. Jeanne E. Hovenden.** I oppose the amendment. The financial management course provider is not an attorney and has no specific knowledge of the debtor's situation during a case. There are rare circumstances in which a discharge injures the debtor due to unforeseen events that occur after the filing of the case. The course provider will not



know when a discharge is no longer in the debtor's best interest. The debtor's attorney should ensure that the certificate of completion is filed. If the course provider fails to file the certificate, the attorney will be held responsible by the debtor and will bear the burden of paying to reopen the case.

**11-BK-015. Raymond P. Bell, Jr.** (Mercantile Adjustment Bureau LLC). I agree with Jeanne Hovenden's comment. The responsibility for filing the certificate of completion of a course in financial management should lie with the debtor's attorney or the debtor acting pro se. Otherwise, creditors will be faced with uncertainty about whom to contact when a case is terminated without a discharge due to the failure to file a certificate of completion.

#### **Rule 4004. Grant or Denial of Discharge**

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\* \* \* \* \*

(c) GRANT OF DISCHARGE.

(1) In a chapter 7 case, on expiration of the times fixed for objecting to discharge and for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge ~~unless, except that the court shall not grant the discharge if:~~

(A) the debtor is not an individual;

(B) a complaint, or a motion under § 727(a)(8) or (a)(9), objecting to the discharge has been filed and not decided in the debtor's favor;

(C) the debtor has filed a waiver under § 727(a)(10);

14 (D) a motion to dismiss the case under  
15 § 707 is pending;

16 (E) a motion to extend the time for filing a  
17 complaint objecting to the discharge is pending;

18 (F) a motion to extend the time for filing a  
19 motion to dismiss the case under Rule 1017(e)(1) is  
20 pending;

21 (G) the debtor has not paid in full the filing  
22 fee prescribed by 28 U.S.C. § 1930(a) and any other  
23 fee prescribed by the Judicial Conference of the  
24 United States under 28 U.S.C. § 1930(b) that is  
25 payable to the clerk upon the commencement of a  
26 case under the Code, unless the court has waived  
27 the fees under 28 U.S.C. § 1930(f);

28 (H) the debtor has not filed with the court a  
29 statement of completion of a course concerning  
30 personal financial management ~~as~~if required by  
31 Rule 1007(b)(7);

32 (I) a motion to delay or postpone discharge  
33 under § 727(a)(12) is pending;

34 (J) a motion to enlarge the time to file a  
35 reaffirmation agreement under Rule 4008(a) is

36 pending;

37 (K) a presumption ~~has arisen~~ is in effect

38 under § 524(m) that a reaffirmation agreement is an

39 undue hardship and the court has not concluded a

40 hearing on the presumption; or

41 (L) a motion is pending to delay discharge;

42 because the debtor has not filed with the court all

43 tax documents required to be filed under § 521(f).

44 \* \* \* \* \*

#### COMMITTEE NOTE

Subdivision (c)(1) is amended in several respects. The introductory language of paragraph (1) is revised to emphasize that the listed circumstances do not just relieve the court of the obligation to enter the discharge promptly but that they prevent the court from entering a discharge.

Subdivision (c)(1)(H) is amended to reflect the simultaneous amendment of Rule 1007(b)(7). The amendment of the latter rule relieves a debtor of the obligation to file a statement of completion of a course concerning personal financial management if the course provider notifies the court directly that the debtor has completed the course. Subparagraph (H) now requires postponement of the discharge when a debtor fails to file a statement of course completion only if the debtor has an obligation to file the statement.

Subdivision (c)(1)(K) is amended to make clear that the prohibition on entering a discharge due to a presumption of undue hardship under

§ 524(m) of the Code ceases when the presumption expires or the court concludes a hearing on the presumption.

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Because this amendment is being made to conform to a simultaneous amendment of Rule 1007(b)(7) and is otherwise technical in nature, final approval is sought without publication.

**Rule 5009. Closing Chapter 7 Liquidation, Chapter 12 Family Farmer’s Debt Adjustment, Chapter 13 Individual’s Debt Adjustment, and Chapter 15 Ancillary and Cross-Border Cases**

\* \* \* \* \*

1                   (b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7)  
2                   STATEMENT. If an individual debtor in a chapter 7 or 13 case is  
3                   required to ~~has not filed the a~~ statement under ~~required by~~ Rule  
4                   1007(b)(7) and fails to do so within 45 days after the first date set  
5                   for the meeting of creditors under § 341(a) of the Code, the clerk  
6                   shall promptly notify the debtor that the case will be closed  
7                   without entry of a discharge unless the required statement is filed  
8                   within the applicable time limit under Rule 1007(c).

\* \* \* \* \*

**COMMITTEE NOTE**

Subdivision (b) is amended to conform to the amendment of Rule 1007(b)(7). Rule 1007(b)(7) relieves an individual debtor of the obligation to file a statement of completion of a personal financial management course if the course provider notifies the court that the debtor has completed the course. The clerk’s duty under subdivision (b) to notify the debtor of the possible closure of the case without discharge if the statement is not timely

filed therefore applies only if the course provider has not already notified the court of the debtor's completion of the course.

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**Changes Made After Publication**

No changes were made after publication.

**Summary of Public Comment**

**11-BK-003. Ganna L. Gudkova.** I support the amendment to Rule 1007 and the related amendment to Rule 5009.

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

\* \* \* \* \*

1           (d) ~~FOR MOTIONS PAPERS—AFFIDAVITS.~~ A written  
2           motion, other than one which may be heard ex parte, and notice of  
3           any hearing shall be served not later than seven days before the  
4           time specified for such hearing, unless a different period is fixed  
5           by these rules or by order of the court. Such an order may for  
6           cause shown be made on ex parte application. When a motion is  
7           supported by affidavit, the affidavit shall be served with the  
8           motion ~~and, except as otherwise provided in Rule 9023,~~  
9           ~~opposing affidavits~~ any written response shall may be served not

1 later than one day before the hearing, unless the court permits  
2 ~~otherwise them to be served at some other time.~~

\* \* \* \* \*

### COMMITTEE NOTE

The title of this rule is amended to draw attention to the fact that it prescribes time limits for the service of motion papers. These time periods apply unless another Bankruptcy Rule or a court order, including a local rule, prescribes different time periods. Rules 9013 and 9014 should also be consulted regarding motion practice. Rule 9013 governs the form of motions and the parties who must be served. Rule 9014 prescribes the procedures applicable to contested matters, including the method of serving motions commencing contested matters and subsequent papers. Subdivision (d) is amended to apply to any written response to a motion, rather than just to opposing affidavits. The caption of the subdivision is amended to reflect this change. Other changes are stylistic.

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#### Changes Made After Publication

No changes were made after publication.

#### Summary of Public Comment

No comments were submitted on this amendment.

#### Rule 9013. Motions: Form and Service

1 A request for an order, except when an application is  
2 authorized by the rules, shall be by written motion, unless made  
3 during a hearing. The motion shall state with particularity the  
4 grounds therefor, and shall set forth the relief or order sought.  
5 Every written motion, other than one which may be considered ex

1 parte, shall be served by the moving party within the time  
2 determined under Rule 9006(d). The moving party shall serve the  
3 motion on:

4 (a) the trustee or debtor in possession and on those entities  
5 specified by these rules; or

6 (b) the entities the court directs if these rules do not require  
7 service or specify the entities to be served if service is not required  
8 ~~or the entities to be served are not specified by these rules, the~~  
9 ~~moving party shall serve the entities the court directs.~~

#### COMMITTEE NOTE

A cross-reference to Rule 9006(d) is added to this rule to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule. The other changes are stylistic.

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#### Changes Made After Publication

No changes were made after publication.

#### Summary of Public Comment

No comments were submitted on this amendment.

#### Rule 9014. Contested Matters

\* \* \* \* \*

1 (b) SERVICE. The motion shall be served in the manner

1 provided for service of a summons and complaint by Rule 7004  
2 and within the time determined under Rule 9006(d). Any written  
3 response to the motion shall be served within the time determined  
4 under Rule 9006(d). Any paper served after the motion shall be  
5 served in the manner provided by Rule 5(b) F.R. Civ. P.

\* \* \* \* \*

### COMMITTEE NOTE

A cross-reference to Rule 9006(d) is added to subdivision (b) to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule.

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#### **Changes Made After Publication**

No changes were made after publication.

#### **Summary of Public Comment**

No comments were submitted on this amendment.



# APPENDIX A-2

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APPENDIX A.2

PROPOSED AMENDMENTS TO OFFICIAL FORMS 7, 9A – 9I, 10, and 21

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF

In re: Debtor

Case No. (if known)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities persons in control of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(2), (31).

1. Income from employment or operation of business

None [ ]

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT

SOURCE

\* \* \* \* \*

## **COMMITTEE NOTE**

The definition of “insider” is amended to conform to the statutory definition of the term. See 11 U.S.C. § 101(31). Under the Code definition, ownership of 5% or more of the voting shares of a corporate debtor does not automatically make the owner an insider of the corporation. And in order to be an affiliate of the debtor and an insider on that basis, ownership or control of at least 20% of the outstanding voting securities of the debtor is required. 11 U.S.C. § 101(2). The phrase “any owner of 5% or more of the voting or equity securities” is therefore deleted. Because § 101(31) provides that a person in control of a debtor corporation is an insider, that term is substituted for the deleted phrase.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

No comments were submitted on this amendment.

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**EXPLANATIONS**

**B9A (Official Form 9A) (12/12)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
<b>Legal Advice</b>	The staff of the bankruptcy clerk’s office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor’s property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor’s wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Presumption of Abuse	If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time.</i> If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <b><i>Do not include this notice with any filing you make with the court.</i></b>
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2), (4), or (6), you must file a complaint -- or a motion if you assert the discharge should be denied under § 727(a)(8) or (a)(9) -- in the bankruptcy clerk’s office by the “Deadline to Object to Debtor’s Discharge or to Challenge the Dischargeability of Certain Debts” listed on the front of this form. The bankruptcy clerk’s office must receive the complaint or motion and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk’s office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk’s office must receive the objections by the “Deadline to Object to Exemptions” listed on the front side.
Bankruptcy Clerk’s Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk’s office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor’s property and debts and the list of the property claimed as exempt, at the bankruptcy clerk’s office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

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UNITED STATES BANKRUPTCY COURT \_\_\_\_\_ District of \_\_\_\_\_

**Notice of  
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines**

[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on \_\_\_\_\_ (date).]  
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter \_\_\_\_\_ on  
\_\_\_\_\_ (date) and was converted to a case under chapter 7 on \_\_\_\_\_ (date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk’s office at the address listed below. NOTE: The staff of the bankruptcy clerk’s office cannot give legal advice.

**Creditors -- Do not file this notice in connection with any proof of claim you submit to the court.  
See Reverse Side for Important Explanations.**

Debtor(s) (name(s) and address):

Case Number:

Last four digits of Social-Security or Individual Taxpayer-ID (ITIN)  
No(s)/Complete EIN:

All other names used by the debtor(s) in the last 8 years  
(include trade names):

Bankruptcy Trustee (name and address):

Attorney for Debtor(s) (name and address):

Telephone number:

Telephone number:

**Meeting of Creditors**

Date:    /    /                  Time:   (    ) A. M.    Location:  
  (    ) P. M.

**Creditors May Not Take Certain Actions:**

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor’s property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

**Creditor with a Foreign Address:**

A creditor to whom this notice is sent at a foreign address should read the information under “Do Not File a Proof of Claim at This Time” on the reverse side.

Address of the Bankruptcy Clerk’s Office:

**For the Court:**

Clerk of the Bankruptcy Court:

Telephone number:

Hours Open:

Date:

**EXPLANATIONS**

**B9B (Official Form 9B) (12/12)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
<b>Legal Advice</b>	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time.</i> If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <b><i>Do not include this notice with any filing you make with the court.</i></b>
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

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**EXPLANATIONS**

**B9C (Official Form 9C) (12/12)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
<b>Legal Advice</b>	The staff of the bankruptcy clerk’s office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor’s property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor’s wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor’s claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk’s office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the “Deadline to File a Proof of Claim” listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2), (4), or (6), you must file a complaint -- or a motion if you assert the discharge should be denied under § 727(a)(8) or (a)(9) -- in the bankruptcy clerk’s office by the “Deadline to Object to Debtor’s Discharge or to Challenge the Dischargeability of Certain Debts” listed on the front of this form. The bankruptcy clerk’s office must receive the complaint or motion and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk’s office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk’s office must receive the objections by the “Deadline to Object to Exemptions” listed on the front side.
Presumption of Abuse	If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.
Bankruptcy Clerk’s Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk’s office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor’s property and debts and the list of the property claimed as exempt, at the bankruptcy clerk’s office.
Liquidation of the Debtor’s Property and Payment of Creditors’ Claims	The bankruptcy trustee listed on the front of this notice will collect and sell the debtor’s property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To make sure you receive any share of that money, you must file a Proof of Claim, as described above.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.
Refer To Other Side For Important Deadlines and Notices	

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**EXPLANATIONS**

**B9D (Official Form 9D) (12/12)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
<b>Legal Advice</b>	The staff of the bankruptcy clerk’s office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor’s property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor’s representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor’s claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk’s office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the “Deadline to File a Proof of Claim” listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Liquidation of the Debtor’s Property and Payment of Creditors’ Claims	The bankruptcy trustee listed on the front of this notice will collect and sell the debtor’s property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To make sure you receive any share of that money, you must file a Proof of Claim, as described above.
Bankruptcy Clerk’s Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk’s office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor’s property and debts and the list of the property claimed as exempt, at the bankruptcy clerk’s office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

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**EXPLANATIONS**

**B9E (Official Form 9E) (12/12)**

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
<b>Legal Advice</b>	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is <i>not</i> listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all <i>or</i> if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim or you might not be paid any money on your claim and may be unable to vote on a plan. The court has not yet set a deadline to file a Proof of Claim. If a deadline is set, you will be sent another notice. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadline for filing claims will be set in a later court order and will apply to all creditors unless the order provides otherwise. If notice of the order setting the deadline is sent to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. <i>See</i> Bankruptcy Code § 1141 (d). Unless the court orders otherwise, however, the discharge will not be effective until completion of all payments under the plan. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 1141 (d) (3), you must file a complaint with the required filing fee in the bankruptcy clerk's office not later than the first date set for the hearing on confirmation of the plan. You will be sent another notice informing you of that date.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

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**EXPLANATIONS**

**B9E ALT (Official Form 9E ALT) (12/12)**

<p>Filing of Chapter 11 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.</p>
<p><b>Legal Advice</b></p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.</p>
<p>Claims</p>	<p>A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is <i>not</i> listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all <i>or</i> if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side or you might not be paid any money on your claim and may be unable to vote on a plan. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i></p>
<p>Discharge of Debts</p>	<p>Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. <i>See</i> Bankruptcy Code § 1141 (d). Unless the court orders otherwise, however, the discharge will not be effective until completion of all payments under the plan. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 1141 (d) (3), you must file a complaint with the required filing fee in the bankruptcy clerk's office not later than the first date set for the hearing on confirmation of the plan. You will be sent another notice informing you of that date.</p>
<p>Exempt Property</p>	<p>The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>
<p align="center">Refer To Other Side For Important Deadlines and Notices</p>	
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**EXPLANATIONS**

**B9F (Official Form 9F) (12/12)**

<p>Filing of Chapter 11 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.</p>
<p><b>Legal Advice</b></p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.</p>
<p>Claims</p>	<p>A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is <i>not</i> listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all <i>or</i> if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim or you might not be paid any money on your claim and may be unable to vote on a plan. The court has not yet set a deadline to file a Proof of Claim. If a deadline is set, you will be sent another notice. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadline for filing claims will be set in a later court order and will apply to all creditors unless the order provides otherwise. If notice of the order setting the deadline is sent to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.  <i>Do not include this notice with any filing you make with the court.</i></p>
<p>Discharge of Debts</p>	<p>Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. <i>See</i> Bankruptcy Code § 1141 (d). A discharge means that you may never try to collect the debt from the debtor, except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 1141 (d) (6) (A), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>
<p align="center">Refer To Other Side For Important Deadlines and Notices</p>	

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**EXPLANATIONS**

**B9F ALT (Official Form 9F ALT) (12/12)**

<p>Filing of Chapter 11 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.</p>
<p><b>Legal Advice</b></p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.</p>
<p>Claims</p>	<p>A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is <i>not</i> listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all <i>or</i> if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim by the "Deadline to File Proof of Claim" listed on the front side, or you might not be paid any money on your claim and may be unable to vote on a plan. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <b><i>Do not include this notice with any filing you make with the court.</i></b></p>
<p>Discharge of Debts</p>	<p>Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. <i>See</i> Bankruptcy Code § 1141 (d). A discharge means that you may never try to collect the debt from the debtor, except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 1141 (d) (6) (A), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>
<p align="center">Refer To Other Side For Important Deadlines and Notices</p>	
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**EXPLANATIONS**

**B9G (Official Form 9G) (12/12)**

Filing of Chapter 12 Bankruptcy Case	A bankruptcy case under Chapter 12 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 12 allows family farmers and family fishermen to adjust their debts pursuant to a plan. A plan is not effective unless confirmed by the court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] <i>or</i> [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] <i>or</i> [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business unless the court orders otherwise.
<b>Legal Advice</b>	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1201. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited in duration or not exist at all, although the debtor may have the right to request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

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UNITED STATES BANKRUPTCY COURT \_\_\_\_\_ District of \_\_\_\_\_

**Notice of  
Chapter 12 Bankruptcy Case, Meeting of Creditors, & Deadlines**

[The debtor [corporation] *or* [partnership] listed below filed a chapter 12 bankruptcy case on \_\_\_\_\_ (date).]  
or [A bankruptcy case concerning the debtor [corporation] *or* [partnership] listed below was originally filed under chapter \_\_\_\_\_  
on \_\_\_\_\_ (date) and was converted to a case under chapter 12 on \_\_\_\_\_ (date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.  
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

**Creditors -- Do not file this notice in connection with any proof of claim you submit to the court.  
See Reverse Side for Important Explanations.**

Debtor(s) (name(s) and address):	Case Number:
	Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)/Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address):	
Telephone number:	Telephone number:

**Meeting of Creditors**

Date:     /   /     Time:    (   ) A. M.    Location:  
                             (   ) P. M.

**Deadlines:**

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

**Deadline to File a Proof of Claim:**

For all creditors(except a governmental unit):                         For a governmental unit:

**Creditor with a Foreign Address:**

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

**Deadline to File a Complaint to Determine Dischargeability of Certain Debts:**

**Filing of Plan, Hearing on Confirmation of Plan**

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:  
Date:\_\_\_\_\_Time:\_\_\_\_\_Location:\_\_\_\_\_]  
or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]  
or [The debtor has not filed a plan as of this date. You will be sent separate notice of the hearing on confirmation of the plan.]

**Creditors May Not Take Certain Actions:**

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

<b>Address of the Bankruptcy Clerk's Office:</b>	<b>For the Court:</b>
	Clerk of the Bankruptcy Court:
<b>Telephone number:</b>	
Hours Open:	Date:

**EXPLANATIONS**

**B9H (Official Form 9H) (12/12)**

<p>Filing of Chapter 12 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 12 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor listed on the front side, and an order for relief has been entered. Chapter 12 allows family farmers and family fishermen to adjust their debts pursuant to a plan. A plan is not effective unless confirmed by the court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] <i>or</i> [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] <i>or</i> [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor’s property and may continue to operate the debtor’s business unless the court orders otherwise.</p>
<p><b>Legal Advice</b></p>	<p>The staff of the bankruptcy clerk’s office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1201. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor’s property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited in duration or not exist at all, although the debtor may have the right to request the court to extend or impose a stay.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor’s representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.</p>
<p>Claims</p>	<p>A Proof of Claim is a signed statement describing a creditor’s claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk’s office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the “Deadline to File a Proof of Claim” listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.  <i>Do not include this notice with any filing you make with the court.</i></p>
<p>Discharge of Debts</p>	<p>The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk’s office by the “Deadline to File a Complaint to Determine Dischargeability of Certain Debts” listed on the front side. The bankruptcy clerk’s office must receive the complaint and any required filing fee by that Deadline.</p>
<p>Bankruptcy Clerk’s Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk’s office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor’s property and debts and the list of the property claimed as exempt, at the bankruptcy clerk’s office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>
<p align="center">Refer To Other Side For Important Deadlines and Notices</p>	
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UNITED STATES BANKRUPTCY COURT \_\_\_\_\_ District of \_\_\_\_\_

**Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines**

[The debtor(s) listed below filed a chapter 13 bankruptcy case on \_\_\_\_\_ (date).]  
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter \_\_\_\_\_  
on \_\_\_\_\_ (date) and was converted to a case under chapter 13 on \_\_\_\_\_ (date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk’s office at the address listed below.  
NOTE: The staff of the bankruptcy clerk’s office cannot give legal advice.

**Creditors -- Do not file this notice in connection with any proof of claim you submit to the court. See Reverse Side for Important Explanations.**

Debtor(s) (name(s) and address):	Case Number:
	Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)/Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address):	
Telephone number:	Telephone number:

**Meeting of Creditors**

Date:      /      /      Time:      (   ) A. M.      Location:

(   ) P. M.

**Deadlines:**

Papers must be *received* by the bankruptcy clerk’s office by the following deadlines:

**Deadline to File a Proof of Claim:**

For all creditors (except a governmental unit):      For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 3002(c)(1)):

**Creditor with a Foreign Address:**

A creditor to whom this notice is sent at a foreign address should read the information under “Claims” on the reverse side.

**Deadline to Object to Debtor’s Discharge or to Challenge Dischargeability of Certain Debts:**

**Deadline to Object to Exemptions:**  
Thirty (30) days after the *conclusion* of the meeting of creditors.

**Filing of Plan, Hearing on Confirmation of Plan**

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:  
Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_ ]  
or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]  
or [The debtor has not filed a plan as of this date. You will be sent separate notice of the hearing on confirmation of the plan.]

**Creditors May Not Take Certain Actions:**

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor’s property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk’s Office:	<b>For the Court:</b>
	Clerk of the Bankruptcy Court:
Telephone number:	
Hours Open:	Date:

**EXPLANATIONS**

**B9I (Official Form 9I) (12/12)**

<p>Filing of Chapter 13 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 13 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] <i>or</i> [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] <i>or</i> [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.</p>
<p><b>Legal Advice</b></p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1301. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to exceed or impose a stay.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.</p>
<p>Claims</p>	<p>A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <b><i>Do not include this notice with any filing you make with the court.</i></b></p>
<p>Discharge of Debts</p>	<p>The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to a discharge under Bankruptcy Code § 1328(f), you must file a motion objecting to discharge in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2) or (4), you must file a complaint in the bankruptcy clerk's office by the same deadline. The bankruptcy clerk's office must receive the motion or the complaint and any required filing fee by that deadline.</p>
<p>Exempt Property</p>	<p>The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>

Refer To Other Side For Important Deadlines and Notices

### **COMMITTEE NOTE**

All versions of the form have been updated on the first page and in the claims box on the explanation page to remind creditors that the form should not be included with or attached to any proof of claim or other filing in the case. Stylistic changes to the form are also made.

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Final approval of these conforming and stylistic amendments is sought without publication.

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<b>UNITED STATES BANKRUPTCY COURT</b> _____ <b>DISTRICT OF</b> _____		<b>PROOF OF CLAIM</b>
Name of Debtor:		Case Number:
<i>NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.</i>		
Name of Creditor (the person or other entity to whom the debtor owes money or property):		<b>COURT USE ONLY</b>
Name and address where notices should be sent:		<input type="checkbox"/> Check this box if this claim amends a previously filed claim.  <b>Court Claim Number:</b> _____ <i>(If known)</i>  Filed on: _____
Telephone number:	email:	
Name and address where payment should be sent (if different from above):		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
Telephone number:	email:	
<b>1. Amount of Claim as of Date Case Filed:</b> \$ _____  If all or part of the claim is secured, complete item 4.  If all or part of the claim is entitled to priority, complete item 5.  <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
<b>2. Basis for Claim:</b> _____ (See instruction #2)		
<b>3. Last four digits of any number by which creditor identifies debtor:</b>  _____	<b>3a. Debtor may have scheduled account as:</b>  _____ (See instruction #3a)	<b>3b. Uniform Claim Identifier (optional):</b>  _____ (See instruction #3b)
<b>4. Secured Claim</b> (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		<b>Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:</b> \$ _____
<b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <b>Describe:</b>		<b>Basis for perfection:</b> _____
<b>Value of Property:</b> \$ _____		<b>Amount of Secured Claim:</b> \$ _____
<b>Annual Interest Rate</b> _____ % <input type="checkbox"/> Fixed   or <input type="checkbox"/> Variable (when case was filed)		<b>Amount Unsecured:</b> \$ _____
<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.</b>		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).
		<b>Amount entitled to priority:</b> \$ _____
<i>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>		
<b>6. Credits.</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

**7. Documents:** Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, ~~and security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A).~~ If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

**8. Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor.       I am the creditor's authorized agent.       I am the trustee, or the debtor,       I am a guarantor, surety, indorser, or other codebtor.  
 (Attach copy of power of attorney, if any.)      or their authorized agent.      (See Bankruptcy Rule 3004.)      (See Bankruptcy Rule 3005.)

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address and telephone number (if different from notice address above): \_\_\_\_\_

(Signature)

(Date)

Telephone number: \_\_\_\_\_ email: \_\_\_\_\_

*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.*

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

*The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.*

**Items to be completed in Proof of Claim form**

**Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

**Creditor's Name and Address:**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed:**

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim:**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

**3a. Debtor May Have Scheduled Account As:**

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**3b. Uniform Claim Identifier:**

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

**4. Secured Claim:**

Check whether the claim is fully or partially secured. Skip this section if the

claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).**

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

**6. Credits:**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**7. Documents:**

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest and documents required by FRBP 3001(c) for claims based on an open-end or revolving consumer credit agreement or secured by a security interest in the debtor's principal residence. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

**8. Date and Signature:**

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, ~~attach a complete copy of any power of attorney, and~~ provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.



**DEFINITIONS****Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

**Creditor**

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

**Claim**

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

**Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

**Secured Claim Under 11 U.S.C. § 506 (a)**

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

**Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

**Claim Entitled to Priority Under 11 U.S.C. § 507 (a)**

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

**Redacted**

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

**Evidence of Perfection**

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

**INFORMATION****Acknowledgment of Filing of Claim**

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

**Offers to Purchase a Claim**

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

### **COMMITTEE NOTE**

Section 7 of the form is amended to remind filers of the need to attach documents required by Rule 3001(c) for claims based on an open-end or revolving consumer credit agreement or claims secured by a security interest in the debtor's principal residence.

Section 8 is revised to delete the direction that an authorized agent attach a power of attorney if one exists. Rule 9010(c) does not require that an agent's authority to file a proof of claim be evidenced by a power of attorney.

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Final approval of these conforming and stylistic amendments is sought without publication.

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**Do not file this form as part of the public case file. This form must be submitted separately and must not be included in the court's public electronic records. Please consult local court procedures for submission requirements.**

### United States Bankruptcy Court

\_\_\_\_\_ District Of \_\_\_\_\_

In re \_\_\_\_\_ )  
 [Set forth here all names including married, maiden, )  
 and trade names used by debtor within last 8 years] )  
 )  
 Debtor ) Case No. \_\_\_\_\_ )  
 Address \_\_\_\_\_ )  
 \_\_\_\_\_ ) Chapter \_\_\_\_\_ )  
 )  
 Last four digits of Social-Security or Individual Taxpayer- )  
 Identification (ITIN) No(s), (if any): \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 Employer Tax-Identification (EIN) No(s), (if any): \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )

#### STATEMENT OF SOCIAL-SECURITY NUMBER(S)

*(or other Individual Taxpayer-Identification Number(s) (ITIN(s)))\**

1. Name of Debtor (Last, First, Middle): \_\_\_\_\_  
*(Check the appropriate box and, if applicable, provide the required information.)*

- Debtor has a Social-Security Number and it is: \_\_\_\_\_  
*(If more than one, state all.)*
- Debtor does not have a Social-Security Number but has an Individual Taxpayer-Identification Number (ITIN), and it is: \_\_\_\_\_  
*(If more than one, state all.)*
- Debtor does not have either a Social-Security Number or an Individual Taxpayer-Identification Number (ITIN).

2. Name of Joint Debtor (Last, First, Middle): \_\_\_\_\_  
*(Check the appropriate box and, if applicable, provide the required information.)*

- Joint Debtor has a Social-Security Number and it is: \_\_\_\_\_  
*(If more than one, state all.)*
- Joint Debtor does not have a Social-Security Number but has an Individual Taxpayer-Identification Number (ITIN) and it is: \_\_\_\_\_  
*(If more than one, state all.)*
- Joint Debtor does not have either a Social-Security Number or an Individual Taxpayer-Identification Number (ITIN).

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

X \_\_\_\_\_  
 Signature of Debtor Date

X \_\_\_\_\_  
 Signature of Joint Debtor Date

\**Joint debtors must provide information for both spouses.*  
 Penalty for making a false statement: Fine of up to \$250,000 or up to 5 years imprisonment or both. 18 U.S.C. §§ 152 and 3571.

### **COMMITTEE NOTE**

The form is amended to remind debtors that, in accordance with Rule 1007(f), it should be submitted to the court, but not filed on the public docket. This rule protects an individual debtor's social-security number or taxpayer-identification number from becoming accessible to the public.

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Final approval of the conforming amendment is sought without publication.

# APPENDIX B-1

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

For Publication for Public Comment

**Rule 1014. Dismissal and Change of Venue**

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(b) PROCEDURE WHEN PETITIONS INVOLVING  
THE SAME 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, ~~on motion~~  
filed the court in the district in which the first-filed petition ~~filed~~  
first is pending ~~and after hearing on notice to the petitioners, the~~  
~~United States trustee, and other entities as directed by the court,~~  
~~the court~~ may determine, in the interest of justice or for the  
convenience of the parties, the district or districts in which ~~the case~~  
~~or~~ any of the cases should proceed. The court may so determine  
on motion and after a hearing, with notice to the following entities  
in these cases: the United States trustee, entities entitled to notice

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

17        under Rule 2002(a), and other entities as the court directs. Except  
18        as otherwise ordered by t~~The court in the district in which the~~  
19        petition filed first is pending, may order the parties to the later-  
20        filed cases not to proceed further ~~the proceedings on the other~~  
21        ~~petitions shall be stayed by the courts in which they have been~~  
22        ~~filed until~~ it makes ~~the determination is made.~~

### COMMITTEE NOTE

Subdivision (b) provides a practical solution for resolving venue issues when related cases are filed in different districts. It designates the court in which the first-filed petition is pending as the decision maker if a party seeks a determination of where the related cases should proceed. Subdivision (b) is amended to clarify when proceedings in the subsequently filed cases are stayed. It requires an order of the court in which the first-filed petition is pending to stay proceedings in the related cases. Requiring a court order to trigger the stay will prevent the disruption of other cases unless there is a judicial determination that this subdivision of the rule applies and that a stay of related cases is needed while the court makes its venue determination.

Notice of the hearing must be given to all debtors, trustees, creditors, indenture trustees, and United States trustees in the affected cases, as well as any other entity that the court directs. Because the clerk of the court that makes the determination often may lack access to the names and addresses of entities in other cases, a court may order the moving party to provide notice.

The other changes to subdivision (b) are stylistic.

**Rule 7004. Process; Service of Summons, Complaint**

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(e) SUMMONS: TIME LIMIT FOR SERVICE WITHIN THE UNITED STATES. Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F.R. Civ. P. shall be by delivery of the summons and complaint within ~~14~~ 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within ~~14~~ 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served. This subdivision does not apply to service in a foreign country.

**COMMITTEE NOTE**

Subdivision (e) is amended to alter the period of time during which service of the summons and complaint must be made. The amendment reduces that period from fourteen days to seven days after issuance of the summons. Because Rule 7012 provides that the defendant’s time to answer the complaint is calculated from the date the summons is issued, a lengthy delay between issuance and service of the summons may unduly shorten the defendant’s time to respond. The amendment is therefore intended to encourage prompt service after issuance of a summons.

**Rule 7008. General Rules of Pleading\*\***

1           ~~(a) APPLICABILITY OF RULE 8 F.R.CIV.P.~~ Rule 8  
2           F.R.Civ.P. applies in adversary proceedings. The allegation of  
3           jurisdiction required by Rule 8(a) shall also contain a reference to  
4           the name, number, and chapter of the case under the Code to which  
5           the adversary proceeding relates and to the district and division  
6           where the case under the Code is pending. In an adversary  
7           proceeding before a bankruptcy ~~judge~~ court, the complaint,  
8           counterclaim, cross-claim, or third-party complaint shall contain a  
9           statement ~~that the proceeding is core or noncore and, if non-core~~  
10          that the pleader does or does not consent to entry of final orders or  
11          judgment by the bankruptcy ~~judge~~ court.  
12          ~~(b) ATTORNEY'S FEES. A request for an award of~~  
13          attorney's fees shall be pleaded as a claim in a complaint, cross=  
14          claim, third-party complaint, answer, or reply as may be  
15          appropriate.

**COMMITTEE NOTE**

Former subdivision (a) is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings,

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\*\* In addition to newly proposed amendments, this draft includes amendments that the Standing Committee approved for publication at the January 2012 meeting.

28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. Rule 7012(b) has been amended to require a similar statement in a responsive pleading. The bankruptcy judge will then determine the appropriate course of proceedings under Rule 7016.

The rule is also amended to delete subdivision (b), which required a request for attorney's fees always to be pleaded as a claim in an allowed pleading. That requirement, which differed from the practice under the Federal Rules of Civil Procedure, had the potential to serve as a trap for the unwary.

The procedures for seeking an award of attorney's fees are now set out in Rule 7054(b)(2), which makes applicable most of the provisions of Rule 54(d)(2) F.R. Civ. P. As specified by Rule 54(d)(2)(A) and (B) F.R. Civ. P., a claim for attorney's fees must be made by a motion filed no later than 14 days after entry of the judgment unless the governing substantive law requires those fees to be proved at trial as an element of damages. When fees are an element of damages, such as when the terms of a contract provide for the recovery of fees incurred prior to the instant adversary proceeding, the general pleading requirements of this rule still apply.

**Rule 7012. Defenses and Objections—When and How Presented— By Pleading or Motion—Motion for Judgment on the Pleadings**

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(b) APPLICABILITY OF RULE 12(b)-(I) F.R. CIV. P.  
Rule 12(b)-(i) F.R. Civ. P. applies in adversary proceedings. A responsive pleading shall admit or deny an allegation that the proceeding is core or non-core. If the response is that the proceeding is non-core it shall include a statement that the party does or does not consent to entry of final orders or judgment by the

8 bankruptcy judge court. In non-core proceedings, final orders and  
9 judgments shall not be entered on the bankruptcy judge's order  
10 except with the express consent of the parties.

### COMMITTEE NOTE

Subdivision (b) is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. The amended rule also removes the provision requiring express consent before the entry of final orders and judgments in non-core proceedings. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. This amendment complements the requirements of amended Rule 7008(a). The bankruptcy judge's subsequent determination of the appropriate course of proceedings, including whether to enter final orders and judgments or to issue proposed findings of fact and conclusions of law, is a pretrial matter now provided for in amended Rule 7016.

#### **Rule 7016. Pre-Trial Procedures; Formulating Issues**

- 1 (a) PRETRIAL CONFERENCES; SCHEDULING;  
2 MANAGEMENT. Rule 16 F.R.Civ.P. applies in adversary  
3 proceedings.  
4 (b) DETERMINING PROCEDURE. The bankruptcy  
5 court shall decide, on its own motion or a party's timely motion,  
6 whether:  
7 (1) to hear and determine the proceeding;

8                                   (2) to hear the proceeding and issue proposed  
9                                   findings of fact and conclusions of law; or  
10                                  (3) to take some other action.

### COMMITTEE NOTE

This rule is amended to create a new subdivision (b) that provides for the bankruptcy court to enter final orders and judgment, issue proposed findings and conclusions, or take some other action in a proceeding. The rule leaves the decision as to the appropriate course of proceedings to the bankruptcy court. The court's decision will be informed by the extent of the district court's order of reference to the bankruptcy court and by the parties' statements, required under Rules 7008(a), 7012(b), and 9027(a) and (e), regarding consent to the entry of final orders and judgment. If the bankruptcy court chooses to issue proposed findings of fact and conclusions of law, Rule 9033 applies.

### **Rule 9023. New Trials; Amendment of Judgments**

1                                  Except as provided in this rule and Rule 3008, Rule 59  
2                                  F.R.Civ.P. applies in cases under the Code. A motion for a new  
3                                  trial or to alter or amend a judgment shall be filed, and a court may  
4                                  on its own order a new trial, no later than 14 days after entry of  
5                                  judgment. In some circumstances, Rule 8008 governs post-  
6                                  judgment motion practice after an appeal has been docketed and is  
7                                  pending.

### COMMITTEE NOTE

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

**Rule 9024. Relief from Judgment or Order**

1           Rule 60 F.R.Civ.P. applies in cases under the Code except  
2           that (1) a motion to reopen a case under the Code or for the  
3           reconsideration of an order allowing or disallowing a claim against  
4           the estate entered without a contest is not subject to the one-year  
5           limitation prescribed in Rule 60(c), (2) a complaint to revoke a  
6           discharge in a chapter 7 liquidation case may be filed only within  
7           the time allowed by § 727(e) of the Code, and (3) a complaint to  
8           revoke an order confirming a plan may be filed only within the  
9           time allowed by § 1144, § 1230, or § 1330. In some  
10          circumstances, Rule 8008 governs post-judgment motion practice  
11          after an appeal has been docketed and is pending.

**COMMITTEE NOTE**

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

**Rule 9027. Removal**

1           (a) NOTICE OF REMOVAL.



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(1) *Where filed; form and content.* A notice of removal shall be filed with the clerk for the district and division within which is located the state or federal court where the civil action is pending. The notice shall be signed pursuant to Rule 9011 and contain a short and plain statement of the facts which entitle the party filing the notice to remove, contain a statement that upon removal of the claim or cause of action ~~the proceeding is core or non-core and, if non-core,~~ that the party filing the notice does or does not consent to entry of final orders or judgment by the bankruptcy ~~judge~~ court, and be accompanied by a copy of all process and pleadings.

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(e) PROCEDURE AFTER REMOVAL.

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(3) Any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, shall file a statement ~~admitting or denying any allegation in the notice of removal that upon removal of the claim or cause of action the proceeding is core or non-core.~~ If the statement alleges that the proceeding is non-core, it shall state that the

24 party does or does not consent to entry of final orders or  
25 judgment by the bankruptcy ~~judge~~ court. A statement  
26 required by this paragraph shall be signed pursuant to Rule  
27 9011 and shall be filed not later than 14 days after the filing  
28 of the notice of removal. Any party who files a statement  
29 pursuant to this paragraph shall mail a copy to every other  
30 party to the removed claim or cause of action.

31 \* \* \* \* \*

### COMMITTEE NOTE

Subdivisions (a)(1) and (e)(3) are amended to delete the requirement for a statement that the proceeding is core or non-core and to require in all removed actions a statement that the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for a statement regarding consent at the time of removal, whether or not a proceeding is termed non-core.

The party filing the notice of removal must include a statement regarding consent in the notice, and the other parties who have filed pleadings must respond in a separate statement filed within 14 days after removal. If a party to the removed claim or cause of action has not filed a pleading prior to removal, however, there is no need to file a separate statement under subdivision (e)(3), because a statement regarding consent must be included in a responsive pleading filed pursuant to Rule 7012(b). Rule 7016 governs the bankruptcy court's decision whether to hear and determine the proceeding, issue proposed findings of fact and conclusions of law, or take some other action in the proceeding.

### **Rule 9033. ~~Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings~~**



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# APPENDIX B-2

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**FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**PART VIII. BANKRUPTCY APPEALS**

**Rule**

- 8001. Scope of Part VIII Rules; Definition of “BAP”; Method of Transmission
- 8002. Time for Filing Notice of Appeal
- 8003. Appeal as of Right—How Taken; Docketing the Appeal
- 8004. Appeal by Leave—How Taken; Docketing the Appeal
- 8005. Election to Have an Appeal Heard by the District Court Instead of the BAP
- 8006. Certifying a Direct Appeal to the Court of Appeals
- 8007. Stay Pending Appeal; Bonds; Suspension of Proceedings
- 8008. Indicative Rulings
- 8009. Record on Appeal; Sealed Documents
- 8010. Completing and Transmitting the Record
- 8011. Filing and Service; Signature
- 8012. Corporate Disclosure Statement
- 8013. Motions; Intervention
- 8014. Briefs
- 8015. Form and Length of Briefs; Form of Appendices and Other Papers
- 8016. Cross-Appeals

- 8017. Brief of an Amicus Curiae
- 8018. Serving and Filing Briefs; Appendices
- 8019. Oral Argument
- 8020. Frivolous Appeal and Other Misconduct
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- 8023. Voluntary Dismissal
- 8024. Clerk's Duties on Disposition of the Appeal
- 8025. Stay of a District Court or BAP Judgment
- 8026. Rules by Circuit Councils and District Courts; Procedure When There is No Controlling Law
- 8027. Notice of a Mediation Procedure
- 8028. Suspension of Rules in Part VIII



**Rule 8001. Scope of Part VIII Rules; Definition of “BAP”;  
Method of Transmission**

1           (a) GENERAL SCOPE. These Part VIII rules govern the  
2           procedure in a United States district court and a bankruptcy  
3           appellate panel on appeal from a judgment, order, or decree of a  
4           bankruptcy court. They also govern certain procedures on appeal  
5           to a United States court of appeals under 28 U.S.C. § 158(d).

6           (b) DEFINITION OF “BAP.” “BAP” means a bankruptcy  
7           appellate panel established by a circuit’s judicial council and  
8           authorized to hear appeals from a bankruptcy court under 28  
9           U.S.C. § 158.

10          (c) METHOD OF TRANSMITTING DOCUMENTS. A  
11          document must be sent electronically under these Part VIII rules,  
12          unless it is being sent by or to an individual who is not represented  
13          by counsel or the court’s governing rules permit or require mailing  
14          or other means of delivery.

**COMMITTEE NOTE**

These Part VIII rules apply to appeals under 28 U.S.C. § 158(a) from bankruptcy courts to district courts and BAPs. The Federal Rules of Appellate Procedure generally govern bankruptcy appeals to courts of appeals.

Eight of the Part VIII rules do, however, relate to appeals to courts of appeals. Rule 8004(e) provides that the authorization by a court of appeals of a direct appeal of a bankruptcy court’s interlocutory order or decree constitutes a grant of leave to appeal. Rule 8006 governs the procedure for certification under 28 U.S.C. § 158(d)(2) of a direct appeal

from a judgment, order, or decree of a bankruptcy court to a court of appeals. Rule 8007 addresses stays pending a direct appeal to a court of appeals. Rule 8008 authorizes a bankruptcy court to issue an indicative ruling while an appeal is pending in a court of appeals. Rules 8009 and 8010 govern the record on appeal in a direct appeal to a court of appeals. Rule 8025 governs the granting of a stay of a district court or BAP judgment pending an appeal to the court of appeals. And Rule 8028 authorizes the court of appeals to suspend applicable Part VIII rules in a particular case, subject to certain enumerated exceptions.

These rules take account of the evolving technology in the federal courts for the electronic filing, storage, and transmission of documents. Except as applied to pro se parties, the Part VIII rules require documents to be sent electronically, unless applicable court rules or orders expressly require or permit another means of sending a particular document.

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

1 (a) IN GENERAL.

2 (1) *Fourteen-Day Period.* Except as provided in  
3 subdivisions (b) and (c), a notice of appeal must be filed  
4 with the bankruptcy clerk within 14 days after entry of the  
5 judgment, order, or decree being appealed.

6 (2) *Filing Before the Entry of Judgment.* A notice  
7 of appeal filed after the bankruptcy court announces a  
8 decision or order—but before entry of the judgment, order,  
9 or decree—is treated as filed on the date of and after the  
10 entry.

11 (3) *Multiple Appeals.* If one party files a timely  
12 notice of appeal, any other party may file a notice of appeal  
13 within 14 days after the date when the first notice was filed,  
14 or within the time otherwise allowed by this rule,  
15 whichever period ends later.

16 (4) *Mistaken Filing in Another Court.* If a notice  
17 of appeal is mistakenly filed in a district court, BAP, or  
18 court of appeals, the clerk of that court must state on the  
19 notice the date on which it was received and transmit it to  
20 the bankruptcy clerk. The notice of appeal is then

21 considered filed in the bankruptcy court on the date so  
22 stated.

23 (b) EFFECT OF A MOTION ON THE TIME TO  
24 APPEAL.

25 (1) *In General.* If a party timely files in the  
26 bankruptcy court any of the following motions, the time to  
27 file an appeal runs for all parties from the entry of the order  
28 disposing of the last such remaining motion:

29 (A) to amend or make additional findings  
30 under Rule 7052, whether or not granting the  
31 motion would alter the judgment;

32 (B) to alter or amend the judgment under  
33 Rule 9023;

34 (C) for a new trial under Rule 9023; or

35 (D) for relief under Rule 9024 if the motion  
36 is filed within 14 days after the judgment is entered.

37 (2) *Filing an Appeal Before the Motion is Decided.*

38 If a party files a notice of appeal after the court announces  
39 or enters a judgment, order, or decree—but before it  
40 disposes of any motion listed in subdivision (b)(1)—the  
41 notice becomes effective when the order disposing of the  
42 last such remaining motion is entered.

43                   (3) *Appealing the Motion.* If a party intends to  
44 challenge an order disposing of any motion listed in  
45 subdivision (b)(1)—or the alteration or amendment of a  
46 judgment, order, or decree upon the motion—the party  
47 must file a notice of appeal or an amended notice of appeal.  
48 The notice or amended notice must comply with Rule 8003  
49 or 8004 and be filed within the time prescribed by this rule,  
50 measured from the entry of the order disposing of the last  
51 such remaining motion.

52                   (4) *No Additional Fee.* No additional fee is  
53 required to file an amended notice of appeal.

54                   (c) APPEAL BY AN INMATE CONFINED IN AN  
55 INSTITUTION.

56                   (1) *In General.* If an inmate confined in an  
57 institution files a notice of appeal from a judgment, order,  
58 or decree of a bankruptcy court to a district court or BAP,  
59 the notice is timely if it is deposited in the institution’s  
60 internal mail system on or before the last day for filing. If  
61 the institution has a system designed for legal mail, the  
62 inmate must use that system to receive the benefit of this  
63 rule. Timely filing may be shown by a declaration in  
64 compliance with 28 U.S.C. § 1746 or by a notarized

65 statement, either of which must set forth the date of deposit  
66 and state that first-class postage has been prepaid.

67 (2) *Multiple Appeals.* If an inmate files under this  
68 subdivision the first notice of appeal, the 14-day period  
69 provided in subdivision (a)(3) for another party to file a  
70 notice of appeal runs from the date when the bankruptcy  
71 clerk docketed the first notice.

72 (d) EXTENDING THE TIME TO APPEAL.

73 (1) *When the Time May be Extended.* Except as  
74 provided in subdivision (d)(2), the bankruptcy court may  
75 extend the time to file a notice of appeal upon a party's  
76 motion that is filed:

77 (A) within the time prescribed by this rule;

78 or

79 (B) within 21 days after that time, if the  
80 party shows excusable neglect.

81 (2) *When the Time May Not be Extended.* The  
82 bankruptcy court may not extend the time to file a notice of  
83 appeal if the judgment, order, or decree appealed from:

84 (A) grants relief from an automatic stay  
85 under § 362, 922, 1201, or 1301 of the Code;

86 (B) authorizes the sale or lease of property

87 or the use of cash collateral under § 363 of the  
88 Code;  
89 (C) authorizes the obtaining of credit under  
90 § 364 of the Code;  
91 (D) authorizes the assumption or  
92 assignment of an executory contract or unexpired  
93 lease under § 365 of the Code;  
94 (E) approves a disclosure statement under  
95 § 1125 of the Code; or  
96 (F) confirms a plan under § 943, 1129,  
97 1225, or 1325 of the Code.  
98 (3) *Time Limits on an Extension.* No extension of  
99 time may exceed 21 days after the time prescribed by this  
100 rule, or 14 days after the order granting the motion to  
101 extend time is entered, whichever is later.

### COMMITTEE NOTE

This rule is derived from former Rule 8002 and F.R.App.P. 4(a) and (c). With the exception of subdivision (c), the changes to the former rule are stylistic. The rule retains the former rule's 14-day time period for filing a notice of appeal, as opposed to the longer periods permitted for appeals in civil cases under F.R.App.P. 4(a).

Subdivision (a) continues to allow any other party to file a notice of appeal within 14 days after the first notice of appeal is filed, or thereafter to the extent otherwise authorized by this rule. Subdivision (a) also retains provisions of the former rule that prescribe the date the notice of appeal is deemed filed if the appellant files it prematurely or in the wrong court.

Subdivision (b), like former Rule 8002(b) and F.R.App.P. 4(a), tolls the time for filing a notice of appeal when certain postjudgment motions are filed, and it prescribes the effective date of a notice of appeal that is filed before the court disposes of all of the specified motions. As under the former rule, a party that wants to appeal the court's disposition of the motion or the alteration or amendment of a judgment, order, or decree in response to such a motion must file a notice of appeal or, if it has already filed one, an amended notice of appeal.

Although Rule 8003(a)(3)(C) requires a notice of appeal to be accompanied by the required fee, no additional fee is required for the filing of an amended notice of appeal.

Subdivision (c) mirrors the provisions of F.R.App.P. 4(c)(1) and (2), which specify timing rules for a notice of appeal filed by an inmate confined in an institution.

Subdivision (d) continues to allow the court to grant an extension of time to file a notice of appeal, except with respect to certain specified judgments, orders, and decrees.



**Rule 8003. Appeal as of Right—How Taken; Docketing the Appeal**

1 (a) FILING THE NOTICE OF APPEAL.

2 (1) *In General.* An appeal from a judgment, order,  
3 or decree of a bankruptcy court to a district court or BAP  
4 under 28 U.S.C. § 158(a)(1) or (a)(2) may be taken only by  
5 filing a notice of appeal with the bankruptcy clerk within  
6 the time allowed by Rule 8002.

7 (2) *Effect of Not Taking Other Steps.* An  
8 appellant's failure to take any step other than the timely  
9 filing of a notice of appeal does not affect the validity of  
10 the appeal, but is ground only for the district court or BAP  
11 to act as it considers appropriate, including dismissing the  
12 appeal.

13 (3) *Contents.* The notice of appeal must:

14 (A) conform substantially to the appropriate  
15 Official Form;

16 (B) be accompanied by the judgment, order,  
17 or decree, or the part of it, being appealed; and

18 (C) be accompanied by the prescribed fee.

19 (4) *Additional Copies.* If requested to do so, the  
20 appellant must furnish the bankruptcy clerk with enough  
21 copies of the notice to enable the clerk to comply with

22 subdivision (c).

23 (b) JOINT OR CONSOLIDATED APPEALS.

24 (1) *Joint Notice of Appeal.* When two or more  
25 parties are entitled to appeal from a judgment, order, or  
26 decree of a bankruptcy court and their interests make  
27 joinder practicable, they may file a joint notice of appeal.  
28 They may then proceed on appeal as a single appellant.

29 (2) *Consolidating Appeals.* When parties have  
30 separately filed timely notices of appeal, the district court  
31 or BAP may join or consolidate the appeals.

32 (c) SERVING THE NOTICE OF APPEAL.

33 (1) *Transmitting to the United States Trustee and*  
34 *Other Parties.* The bankruptcy clerk must transmit the  
35 notice of appeal to the United States trustee and to counsel  
36 of record for each party to the appeal, excluding the  
37 appellant. If a party is proceeding pro se, the clerk must  
38 send the notice of appeal to the party's last known address.  
39 The clerk must note, on each copy, the date when the notice  
40 of appeal was filed.

41 (2) *Effect of Failing to Transmit Notice.* The  
42 bankruptcy clerk's failure to transmit notice to a party or  
43 the United States trustee does not affect the validity of

44 the appeal.

45 (3) *Noting Service on the Docket.* The clerk must  
46 note on the docket the names of the parties served and the  
47 date and method of the service.

48 (d) TRANSMITTING THE NOTICE OF APPEAL TO  
49 THE DISTRICT COURT OR BAP; DOCKETING THE APPEAL.

50 (1) *Transmitting the Notice.* The bankruptcy clerk  
51 must promptly transmit the notice of appeal to the BAP  
52 clerk if a BAP has been established for appeals from that  
53 district and the appellant has not elected to have the district  
54 court hear the appeal. Otherwise, the bankruptcy clerk  
55 must promptly transmit the notice to the district clerk.

56 (2) *Docketing in the District Court or BAP.* Upon  
57 receiving the notice of appeal, the district or BAP clerk  
58 must docket the appeal under the title of the bankruptcy  
59 court action and must identify the appellant, adding the  
60 appellant's name if necessary.

#### COMMITTEE NOTE

This rule is derived from several former Bankruptcy Rule and Appellate Rule provisions. It addresses appeals as of right, joint and consolidated appeals, service of the notice of appeal, and the timing of the docketing of an appeal in the district court or BAP.

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 (2). The rule now requires that the judgment, order, or decree being appealed be attached to the notice of appeal.

Subdivision (b), which is an adaptation of F.R.App.P. 3(b), permits the filing of a joint notice of appeal by multiple appellants that have sufficiently similar interests that their joinder is practicable. It also allows the district court or BAP to consolidate appeals taken separately by two or more parties.

Subdivision (c) is derived from former Rule 8004 and F.R.App.P. 3(d). Under Rule 8001(c), the former rule's requirement that service of the notice of appeal be accomplished by mailing is generally modified to require that the bankruptcy clerk serve counsel by electronic means. Service on pro se parties must be made by sending the notice to the address most recently provided to the court.

Subdivision (d) modifies the provision of former Rule 8007(b), which delayed the docketing of an appeal by the district court or BAP until the record was complete and the bankruptcy clerk transmitted it. The new provision, adapted from F.R.App.P. 3(d) and 12(a), requires the bankruptcy clerk to promptly transmit the notice of appeal to the clerk of the district court or BAP. Upon receipt of the notice of appeal, the district or BAP clerk must docket the appeal. Under this procedure, motions filed in the district court or BAP prior to completion and transmission of the record can generally be placed on the docket of an already pending appeal.

**Rule 8004. Appeal by Leave—How Taken; Docketing the Appeal**

1           (a) NOTICE OF APPEAL AND MOTION FOR LEAVE  
2 TO APPEAL. To appeal from an interlocutory order or decree of a  
3 bankruptcy court under 28 U.S.C. § 158(a)(3), a party must file  
4 with the bankruptcy clerk a notice of appeal as prescribed by Rule  
5 8003(a). The notice must:

- 6                   (1) be filed within the time allowed by Rule 8002;
- 7                   (2) be accompanied by a motion for leave to appeal  
8 prepared in accordance with subdivision (b); and
- 9                   (3) unless served electronically using the court’s  
10 transmission equipment, include proof of service in  
11 accordance with Rule 8011(d).

12           (b) CONTENTS OF THE MOTION; RESPONSE.

13                   (1) *Contents.* A motion for leave to appeal under  
14 28 U.S.C. § 158(a)(3) must include the following:

- 15                           (A) the facts necessary to understand the  
16 question presented;
- 17                           (B) the question itself;
- 18                           (C) the relief sought;
- 19                           (D) the reasons why leave to appeal should  
20 be granted; and
- 21                           (E) a copy of the interlocutory order or

22 decree and any related opinion or memorandum.

23 (2) *Response*. A party may file with the district or  
24 BAP clerk a response in opposition or a cross-motion  
25 within 14 days after the motion is served.

26 (c) TRANSMITTING THE NOTICE OF APPEAL AND  
27 THE MOTION; DOCKETING THE APPEAL; DETERMINING  
28 THE MOTION.

29 (1) *Transmitting to the District Court or BAP*. The  
30 bankruptcy clerk must promptly transmit the notice of  
31 appeal and the motion for leave to the BAP clerk if a BAP  
32 has been established for appeals from that district and the  
33 appellant has not elected to have the district court hear the  
34 appeal. Otherwise, the bankruptcy clerk must promptly  
35 transmit the notice and motion to the district clerk.

36 (2) *Docketing in the District Court or BAP*. Upon  
37 receiving the notice and motion, the district or BAP clerk  
38 must docket the appeal under the title of the bankruptcy  
39 court action and must identify the appellant, adding the  
40 appellant's name if necessary.

41 (3) *Oral Argument Not Required*. The motion and  
42 any response or cross-motion are submitted without oral  
43 argument unless the district court or BAP orders otherwise.

44                   If the motion is denied, the district court or BAP must  
45                   dismiss the appeal.

46                   (d) FAILURE TO FILE A MOTION WITH A NOTICE  
47                   OF APPEAL. If an appellant timely files a notice of appeal under  
48                   this rule but does not include a motion for leave, the district court  
49                   or BAP may order the appellant to file a motion for leave, or treat  
50                   the notice of appeal as a motion for leave and either grant or deny  
51                   it. If the court orders that a motion for leave be filed, the appellant  
52                   must do so within 14 days after the order is entered, unless the  
53                   order provides otherwise.

54                   (e) DIRECT APPEAL TO A COURT OF APPEALS. If  
55                   leave to appeal an interlocutory order or decree is required under  
56                   28 U.S.C. § 158(a)(3), an authorization of a direct appeal by the  
57                   court of appeals under 28 U.S.C. § 158(d)(2) satisfies the  
58                   requirement.

#### **COMMITTEE NOTE**

This rule is derived from former Rules 8001(b) and 8003 and F.R.App.P. 5. It retains the practice for interlocutory bankruptcy appeals of requiring a notice of appeal to be filed along with a motion for leave to appeal. Like current Rule 8003, it alters the timing of the docketing of the appeal in the district court or BAP.

Subdivision (a) requires a party seeking leave to appeal under 28 U.S.C. § 158(a)(3) to file with the bankruptcy clerk both a notice of appeal and a motion for leave to appeal.

Subdivision (b) prescribes the contents of the motion, retaining the

requirements of former Rule 8003(a). It also continues to allow another party to file a cross-motion or response to the appellant's motion. Because of the prompt docketing of the appeal under the current rule, the cross-motion or response must be filed in the district court or BAP, rather than in the bankruptcy court as the former rule required.

Subdivision (c) requires the bankruptcy clerk to transmit promptly to the district court or BAP the notice of appeal and the motion for leave to appeal. Upon receipt of the notice and the motion, the district or BAP clerk must docket the appeal. Unless the district court or BAP orders otherwise, no oral argument will be held on the motion.

Subdivision (d) retains the provisions of former Rule 8003(c). It provides that if the appellant timely files a notice of appeal, but fails to file a motion for leave to appeal, the court can either direct that a motion be filed or treat the notice of appeal as the motion and either grant or deny leave.

Subdivision (e), like former Rule 8003(d), treats the authorization of a direct appeal by the court of appeals as a grant of leave to appeal under 28 U.S.C. § 158(a)(3) if the district court or BAP has not already granted leave. Thus, a separate order granting leave to appeal is not required. If the court of appeals grants permission to appeal, the record must be assembled and transmitted in accordance with Rules 8009 and 8010.



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

1           (a) FILING OF A STATEMENT OF ELECTION. To  
2 elect to have an appeal heard by the district court, a party must:

3                   (1) file a statement of election that conforms  
4 substantially to the appropriate Official Form; and

5                   (2) do so within the time prescribed by 28 U.S.C.  
6 § 158(c)(1).

7           (b) TRANSFERRING THE DOCUMENTS RELATED  
8 TO THE APPEAL. Upon receiving an appellant’s timely  
9 statement of election, the bankruptcy clerk must transmit to the  
10 district clerk all documents related to the appeal. Upon receiving a  
11 timely statement of election by a party other than the appellant, the  
12 BAP clerk must transmit to the district clerk all documents related  
13 to the appeal.

14           (c) DETERMINING THE VALIDITY OF AN  
15 ELECTION. A party seeking a determination of the validity of an  
16 election must file a motion in the court where the appeal is then  
17 pending. The motion must be filed within 14 days after the  
18 statement of election is filed.

19           (d) MOTION FOR LEAVE WITHOUT A NOTICE OF  
20 APPEAL—EFFECT ON THE TIMING OF AN ELECTION. If  
21 an appellant moves for leave to appeal under Rule 8004 but fails to

22 file a separate notice of appeal with the motion, the motion must be  
23 treated as a notice of appeal for purposes of determining the  
24 timeliness of a statement of election.

#### **COMMITTEE NOTE**

This rule, which implements 28 U.S.C. § 158(c)(1), is derived from former Rule 8001(e).

As the former rule required, subdivision (a) provides that an appellant that elects to have a district court, rather than a BAP, hear its appeal must file with the bankruptcy clerk a statement of election when it files its notice of appeal. The statement must conform substantially to the appropriate Official Form. If a BAP has been established for appeals from the bankruptcy court and the appellant does not file a timely statement of election, any other party that elects to have the district court hear the appeal must file a statement of election with the BAP clerk no later than 30 days after service of the notice of appeal.

Subdivision (b) requires the bankruptcy clerk to transmit all appeal documents to the district clerk if the appellant files a timely statement of election. If the appellant does not make that election, the bankruptcy clerk must transmit those documents to the BAP clerk, and upon a timely election by any other party, the BAP clerk must promptly transmit the appeal documents to the district clerk.

Subdivision (c) provides a new procedure for the resolution of disputes regarding the validity of an election. A motion seeking the determination of the validity of an election must be filed no later than 14 days after the statement of election is filed. Nothing in this rule prevents a court from determining the validity of an election on its own motion.

Subdivision (d) provides that, in the case of an appeal by leave, if the appellant files a motion for leave to appeal but fails to file a notice of appeal, the filing and service of the motion will be treated for timing purposes under this rule as the filing and service of the notice of appeal.

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

1           (a) EFFECTIVE DATE OF A CERTIFICATION. A  
2 certification of a judgment, order, or decree of a bankruptcy court  
3 for direct review in a court of appeals under 28 U.S.C. § 158(d)(2)  
4 is effective when:

- 5                       (1) the certification has been filed;  
6                       (2) a timely appeal has been taken under Rule 8003  
7 or 8004; and  
8                       (3) the notice of appeal has become effective under  
9 Rule 8002.

10           (b) FILING THE CERTIFICATION. The certification  
11 must be filed with the clerk of the court where the matter is  
12 pending. For purposes of this rule, a matter remains pending in the  
13 bankruptcy court for 30 days after the effective date of the first  
14 notice of appeal from the judgment, order, or decree for which  
15 direct review is sought. A matter is pending in the district court or  
16 BAP thereafter.

17           (c) JOINT CERTIFICATION BY ALL APPELLANTS  
18 AND APPELLEES. A joint certification by all the appellants and  
19 appellees under 28 U.S.C. § 158(d)(2)(A) must be made by using  
20 the appropriate Official Form. The parties may supplement the  
21 certification with a short statement of the basis for the certification,

22 which may include the information listed in subdivision (f)(2).

23 (d) THE COURT THAT MAY MAKE THE  
24 CERTIFICATION. Only the court where the matter is pending, as  
25 provided in subdivision (b), may certify a direct review on request  
26 of parties or on its own motion.

27 (e) CERTIFICATION ON THE COURT'S OWN  
28 MOTION.

29 (1) *How Accomplished.* A certification on the  
30 court's own motion must be set forth in a separate  
31 document. The clerk of the certifying court must serve it  
32 on the parties to the appeal in the manner required for  
33 service of a notice of appeal under Rule 8003(c)(1). The  
34 certification must be accompanied by an opinion or  
35 memorandum that contains the information required by  
36 subdivision (f)(2)(A)-(D).

37 (2) *Supplemental Statement by a Party.* Within 14  
38 days after the court's certification, a party may file with the  
39 clerk of the certifying court a short supplemental statement  
40 regarding the merits of certification.

41 (f) CERTIFICATION BY THE COURT ON REQUEST.

42 (1) *How Requested.* A request by a party for  
43 certification that a circumstance specified in 28 U.S.C.

44 §158(d)(2)(A)(i)-(iii) applies—or a request by a majority of  
45 the appellants and a majority of the appellees—must be  
46 filed with the clerk of the court where the matter is pending  
47 within 60 days after the entry of the judgment, order, or  
48 decree.

49 (2) *Service and Contents.* The request must be  
50 served on all parties to the appeal in the manner required  
51 for service of a notice of appeal under Rule 8003(c)(1), and  
52 it must include the following:

53 (A) the facts necessary to understand the  
54 question presented;

55 (B) the question itself;

56 (C) the relief sought;

57 (D) the reasons why the direct appeal  
58 should be allowed, including which circumstance  
59 specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii)  
60 applies; and

61 (E) a copy of the judgment, order, or decree  
62 and any related opinion or memorandum.

63 (3) *Time to File a Response or a Cross-Request.* A  
64 party may file a response to the request within 14 days after  
65 the request is served, or such other time as the court where

66 the matter is pending allows. A party may file a cross-  
67 request for certification within 14 days after the request is  
68 served, or within 60 days after the entry of the judgment,  
69 order, or decree, whichever occurs first.

70 (4) *Oral Argument Not Required.* The request,  
71 cross-request, and any response are not governed by Rule  
72 9014 and are submitted without oral argument unless the  
73 court where the matter is pending orders otherwise.

74 (5) *Form and Service of the Certification.* If the  
75 court certifies a direct appeal in response to the request, it  
76 must do so in a separate document. The certification must  
77 be served on the parties to the appeal in the manner  
78 required for service of a notice of appeal under Rule  
79 8003(c)(1).

80 (g) **PROCEEDING IN THE COURT OF APPEALS**  
81 **FOLLOWING A CERTIFICATION.** Within 30 days after the  
82 date the certification becomes effective under subdivision (a), a  
83 request for permission to take a direct appeal to the court of  
84 appeals must be filed with the circuit clerk.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8001(f), and it provides the

procedures for the certification of a direct appeal of a judgment, order, or decree of a bankruptcy court to the court of appeals under 28 U.S.C. § 158(d)(2). Once a case has been certified in the bankruptcy court, the district court, or the BAP for direct appeal and a request for permission to appeal has been timely filed, the Federal Rules of Appellate Procedure govern further proceedings in the court of appeals.

Subdivision (a), like the former rule, requires that an appeal be properly taken—now under Rule 8003 or 8004—before a certification for direct review in the court of appeals takes effect. This rule requires the timely filing of a notice of appeal under Rule 8002 and accounts for the delayed effectiveness of a notice of appeal under the circumstances specified in that rule. Ordinarily, a notice of appeal is effective when it is filed in the bankruptcy court. Rule 8002, however, delays the effectiveness of a notice of appeal when (1) it is filed after the announcement of a decision or order but prior to the entry of the judgment, order, or decree; or (2) it is filed after the announcement or entry of a judgment, order, or decree but before the bankruptcy court disposes of certain postjudgment motions.

When the bankruptcy court enters an interlocutory order or decree that is appealable under 28 U.S.C. § 158(a)(3), certification for direct review in the court of appeals may take effect before the district court or BAP grants leave to appeal. The certification is effective when the actions specified in subdivision (a) have occurred. Rule 8004(e) provides that if the court of appeals grants permission to take a direct appeal before leave to appeal an interlocutory ruling has been granted, the authorization by the court of appeals is treated as the granting of leave to appeal.

Subdivision (b) provides that a certification must be filed in the court where the matter is pending, as determined by this subdivision. This provision modifies the former rule. Because of the prompt docketing of appeals in the district court or BAP under Rules 8003 and 8004, a matter is deemed—for purposes of this rule only—to remain pending in the bankruptcy court for 30 days after the effective date of the notice of appeal. This provision will in appropriate cases give the bankruptcy judge, who will be familiar with the matter being appealed, an opportunity to decide whether certification for direct review is appropriate. Similarly, subdivision (d) provides that only the court where the matter is then pending according to subdivision (b) may make a certification on its own motion or on the request of one or more parties.

Section 158(d)(2) provides three different ways in which an appeal may be certified for direct review. Implementing these options, the rule

provides in subdivision (c) for the joint certification by all appellants and appellees; in subdivision (e) for the bankruptcy court's, district court's, or BAP's certification on its own motion; and in subdivision (f) for the bankruptcy court's, district court's, or BAP's certification on request of a party or a majority of appellants and a majority of appellees.

Subdivision (g) requires that, once a certification for direct review is made, a request to the court of appeals for permission to take a direct appeal to that court must be filed with the clerk of the court of appeals no later than 30 days after the effective date of the certification. Federal Rule of Appellate Procedure 6(c), which incorporates all of F.R.App.P. 5 except subdivision (a)(3), prescribes the procedure for requesting the permission of the court of appeals and governs proceedings that take place thereafter in that court.



**Rule 8007. Stay Pending Appeal; Bonds; Suspension of Proceedings**

1 (a) INITIAL MOTION IN THE BANKRUPTCY COURT.

2 (1) *In General.* Ordinarily, a party must move first  
3 in the bankruptcy court for the following relief:

4 (A) a stay of a judgment, order, or decree of  
5 the bankruptcy court pending appeal;

6 (B) the approval of a supersedeas bond;

7 (C) an order suspending, modifying,  
8 restoring, or granting an injunction while an appeal  
9 is pending; or

10 (D) the suspension or continuation of  
11 proceedings in a case or other relief permitted by  
12 subdivision (e).

13 (2) *Time to File.* The motion may be made either  
14 before or after the notice of appeal is filed.

15 (b) MOTION IN THE COURT OF APPEALS ON  
16 DIRECT APPEAL, THE DISTRICT COURT, OR THE BAP.

17 (1) *Request for Relief.* A motion for the relief  
18 specified in subdivision (a)(1)—or to vacate or modify a  
19 bankruptcy court’s order granting such relief—may be  
20 made in the court where the appeal is pending or where it  
21 will be taken.

22                                   (2) *Showing or Statement Required.* The motion  
23                                   must:

24                                   (A) show that moving first in the  
25                                   bankruptcy court would be impracticable; or

26                                   (B) if a motion was made in the bankruptcy  
27                                   court, either state that the court has not yet ruled on  
28                                   the motion, or state that the court has ruled and set  
29                                   out any reasons given for the ruling.

30                                   (3) *Additional Content.* The motion must also  
31                                   include:

32                                   (A) the reasons for granting the relief  
33                                   requested and the facts relied upon;

34                                   (B) affidavits or other sworn statements  
35                                   supporting facts subject to dispute; and

36                                   (C) relevant parts of the record.

37                                   (4) *Serving Notice.* The movant must give  
38                                   reasonable notice of the motion to all parties.

39                                   (c) **FILING A BOND OR OTHER SECURITY.** The  
40                                   district court, BAP, or court of appeals may condition relief on  
41                                   filing a bond or other appropriate security with the bankruptcy  
42                                   court.

43                                   (d) **BOND FOR A TRUSTEE OR THE UNITED**

44 STATES. The court may require a trustee to file a bond or other  
45 appropriate security when the trustee appeals. A bond or other  
46 security is not required when an appeal is taken by the United  
47 States, its officer, or its agency or by direction of any department  
48 of the federal government.

49 (e) CONTINUED PROCEEDINGS IN THE  
50 BANKRUPTCY COURT. Despite Rule 7062 and subject to the  
51 authority of the district court, BAP, or court of appeals, the  
52 bankruptcy court may:

53 (1) suspend or continue other proceedings in the  
54 case; or

55 (2) issue any other appropriate orders during the  
56 pendency of an appeal to protect the rights of all parties in  
57 interest.

#### COMMITTEE NOTE

This rule is derived from former Rule 8005 and F.R.App.P. 8. It now applies to direct appeals in courts of appeals.

Subdivision (a), like the former rule, requires a party ordinarily to seek relief pending an appeal in the bankruptcy court. Subdivision (a)(1) expands the list of relief enumerated in F.R.App.P. 8(a)(1) to reflect bankruptcy practice. It includes the suspension or continuation of other proceedings in the bankruptcy case, as authorized by subdivision (e). Subdivision (a)(2) clarifies that a motion for a stay pending appeal, approval of a supersedeas bond, or any other relief specified in paragraph (1) may be made in the bankruptcy court before or after the filing of a notice of appeal.

Subdivision (b) authorizes a party to seek the relief specified in (a)(1), or the vacation or modification of the granting of such relief, by means of a motion filed in the court where the appeal is pending or will be taken—district court, BAP, or the court of appeals on direct appeal. Accordingly, a notice of appeal need not be filed with respect to a bankruptcy court’s order granting or denying such a motion. The motion for relief in the district court, BAP, or court of appeals must state why it was impracticable to seek relief initially in the bankruptcy court, if a motion was not filed there, or why the bankruptcy court denied the relief sought.

Subdivisions (c) and (d) retain the provisions of the former rule that permit the district court or BAP—and now the court of appeals—to condition the granting of relief on the posting of a bond by the appellant, except when that party is a federal government entity. Rule 9025 governs proceedings against sureties.

**Rule 8008. Indicative Rulings**

1           (a) RELIEF PENDING APPEAL. If a party files a timely  
2 motion in the bankruptcy court for relief that the court lacks  
3 authority to grant because of an appeal that has been docketed and  
4 is pending, the bankruptcy court may:

5                   (1) defer considering the motion;

6                   (2) deny the motion; or

7                   (3) state that the court would grant the motion if the  
8 court where the appeal is pending remands for that purpose,  
9 or state that the motion raises a substantial issue.

10           (b) NOTICE TO THE COURT WHERE THE APPEAL IS  
11 PENDING. The movant must promptly notify the clerk of the  
12 court where the appeal is pending if the bankruptcy court states  
13 that it would grant the motion or that the motion raises a  
14 substantial issue.

15           (c) REMAND AFTER AN INDICATIVE RULING. If the  
16 bankruptcy court states that it would grant the motion or that the  
17 motion raises a substantial issue, the district court or BAP may  
18 remand for further proceedings, but it retains jurisdiction unless it  
19 expressly dismisses the appeal. If the district court or BAP  
20 remands but retains jurisdiction, the parties must promptly notify

21 the clerk of that court when the bankruptcy court has decided the  
22 motion on remand.

### COMMITTEE NOTE

This rule is an adaptation of F.R.Civ.P. 62.1 and F.R.App.P. 12.1. It provides a procedure for the issuance of an indicative ruling when a bankruptcy court determines that, because of a pending appeal, the court lacks jurisdiction to grant a request for relief that the court concludes is meritorious or raises a substantial issue. The rule does not attempt to define the circumstances in which an appeal limits or defeats the bankruptcy court's authority to act in the face of a pending appeal. In contrast, Rule 8002(b) identifies motions that, if filed within the relevant time limit, suspend the effect of a notice of appeal filed before the last such motion is resolved. In those circumstances, the bankruptcy court has authority to resolve the motion without resorting to the indicative ruling procedure.

Subdivision (b) requires the movant to notify the court where an appeal is pending if the bankruptcy court states that it would grant the motion or that it raises a substantial issue. This provision applies to appeals pending in the district court, the BAP, or the court of appeals.

Federal Rules of Appellate Procedure 6 and 12.1 govern the procedure in the court of appeals following notification of the bankruptcy court's indicative ruling.

Subdivision (c) of this rule governs the procedure in the district court or BAP upon notification that the bankruptcy court has issued an indicative ruling. The district court or BAP may remand to the bankruptcy court for a ruling on the motion for relief. The district court or BAP may also remand all proceedings, thereby terminating the initial appeal, if it expressly states that it is dismissing the appeal. It should do so, however, only when the appellant has stated clearly its intention to abandon the appeal. Otherwise, the district court or BAP may remand for the purpose of ruling on the motion, while retaining jurisdiction to proceed with the appeal after the bankruptcy court rules, provided that the appeal is not then moot and a party wishes to proceed.

**Rule 8009. Record on Appeal; Sealed Documents**

1 (a) DESIGNATING THE RECORD ON APPEAL;  
2 STATEMENT OF THE ISSUES.

3 (1) *Appellant.*

4 (A) The appellant must file with the  
5 bankruptcy clerk and serve on the appellee a  
6 designation of the items to be included in the record  
7 on appeal and a statement of the issues to be  
8 presented.

9 (B) The appellant must file and serve the  
10 designation and statement within 14 days after:

11 (i) the appellant's notice of appeal as  
12 of right becomes effective under Rule 8002;

13 or

14 (ii) an order granting leave to appeal  
15 is entered.

16 A designation and statement served prematurely  
17 must be treated as served on the first day on which  
18 filing is timely.

19 (2) *Appellee and Cross-Appellant.* Within 14 days  
20 after being served, the appellee may file and serve on the  
21 appellant a designation of additional items to be included in

22 the record. An appellee who files a cross-appeal must file  
23 and serve a designation of additional items to be included  
24 in the record and a statement of the issues to be presented  
25 on the cross-appeal.

26 (3) *Cross-Appellee*. Within 14 days after service of  
27 the cross-appellant's designation and statement, a cross-  
28 appellee may file and serve on the cross-appellant a  
29 designation of additional items to be included in the record.

30 (4) *Record on Appeal*. The record on appeal must  
31 include the following:

- 32 • items designated by the parties;
- 33 • the notice of appeal;
- 34 • the judgment, order, or decree being  
35 appealed;
- 36 • any order granting leave to appeal;
- 37 • any certification required for a direct appeal  
38 to the court of appeals;
- 39 • any opinion, findings of fact, and  
40 conclusions of law relating to the issues on appeal,  
41 including transcripts of all oral rulings;
- 42 • any transcript ordered under subdivision (b);



- 43                   •       any statement required by subdivision (c);  
44                   and  
45                   •       any additional items from the record that the  
46                   court where the appeal is pending orders.

47                   (5) *Copies for the Bankruptcy Clerk.* If paper  
48                   copies are needed, a party filing a designation of items  
49                   must provide a copy of any of those items that the  
50                   bankruptcy clerk requests. If the party fails to do so, the  
51                   bankruptcy clerk must prepare the copy at the party's  
52                   expense.

53                   (b) TRANSCRIPT OF PROCEEDINGS.

54                   (1) *Appellant's Duty to Order.* Within the time  
55                   period prescribed by subdivision (a)(1), the appellant must:

56                               (A) order in writing from the reporter, as  
57                               defined in Rule 8010(a)(1), a transcript of such  
58                               parts of the proceedings not already on file as the  
59                               appellant considers necessary for the appeal, and  
60                               file a copy of the order with the bankruptcy clerk;  
61                               or

62                               (B) file with the bankruptcy clerk a  
63                               certificate stating that the appellant is not ordering a  
64                               transcript.

65                   (2) *Cross-Appellant's Duty to Order.* Within 14  
66 days after the appellant files a copy of the transcript order  
67 or a certificate of not ordering a transcript, the appellee as  
68 cross-appellant must:

69                   (A) order in writing from the reporter, as  
70 defined in Rule 8010(a)(1), a transcript of such  
71 additional parts of the proceedings as the cross-  
72 appellant considers necessary for the appeal, and  
73 file a copy of the order with the bankruptcy clerk;  
74 or

75                   (B) file with the bankruptcy clerk a  
76 certificate stating that the cross-appellant is not  
77 ordering a transcript.

78                   (3) *Appellee's or Cross-Appellee's Right to Order.*  
79 Within 14 days after the appellant or cross-appellant files a  
80 copy of a transcript order or certificate of not ordering a  
81 transcript, the appellee or cross-appellee may order in  
82 writing from the reporter a transcript of such additional  
83 parts of the proceedings as the appellee or cross-appellee  
84 considers necessary for the appeal. A copy of the order  
85 must be filed with the bankruptcy clerk.

86                   (4) *Payment.* At the time of ordering, a party must

87 make satisfactory arrangements with the reporter for paying  
88 the cost of the transcript.

89 (5) *Unsupported Finding or Conclusion.* If the  
90 appellant intends to argue on appeal that a finding or  
91 conclusion is unsupported by the evidence or is contrary to  
92 the evidence, the appellant must include in the record a  
93 transcript of all relevant testimony and copies of all  
94 relevant exhibits.

95 (c) STATEMENT OF THE EVIDENCE WHEN A  
96 TRANSCRIPT IS UNAVAILABLE. If a transcript of a hearing or  
97 trial is unavailable, the appellant may prepare a statement of the  
98 evidence or proceedings from the best available means, including  
99 the appellant's recollection. The statement must be filed within  
100 the time prescribed by subdivision (a)(1) and served on the  
101 appellee, who may serve objections or proposed amendments  
102 within 14 days after being served. The statement and any  
103 objections or proposed amendments must then be submitted to the  
104 bankruptcy court for settlement and approval. As settled and  
105 approved, the statement must be included by the bankruptcy clerk  
106 in the record on appeal.

107 (d) AGREED STATEMENT AS THE RECORD ON  
108 APPEAL. Instead of the record on appeal as defined in

109 subdivision (a), the parties may prepare, sign, and submit to the  
110 bankruptcy court a statement of the case showing how the issues  
111 presented by the appeal arose and were decided in the bankruptcy  
112 court. The statement must set forth only those facts alleged and  
113 proved or sought to be proved that are essential to the court's  
114 resolution of the issues. If the statement is accurate, it—together  
115 with any additions that the bankruptcy court may consider  
116 necessary to a full presentation of the issues on appeal—must be  
117 approved by the bankruptcy court and must then be certified to the  
118 court where the appeal is pending as the record on appeal. The  
119 bankruptcy clerk must then transmit it to the clerk of that court  
120 within the time provided by Rule 8010. A copy of the agreed  
121 statement may be filed in place of the appendix required by Rule  
122 8018(b) or, in the case of a direct appeal to the court of appeals, by  
123 F.R.App.P. 30.

124 (e) CORRECTING OR MODIFYING THE RECORD.

125 (1) *Submitting to the Bankruptcy Court.* If any  
126 difference arises about whether the record accurately  
127 discloses what occurred in the bankruptcy court, the  
128 difference must be submitted to and settled by the  
129 bankruptcy court and the record conformed accordingly. If  
130 an item has been improperly designated as part of the

131 record on appeal, a party may move to strike that item.

132 (2) *Correcting in Other Ways.* If anything material  
133 to either party is omitted from or misstated in the record by  
134 error or accident, the omission or misstatement may be  
135 corrected, and a supplemental record may be certified and  
136 transmitted:

137 (A) on stipulation of the parties;

138 (B) by the bankruptcy court before or after  
139 the record has been forwarded; or

140 (C) by the court where the appeal is  
141 pending.

142 (3) *Remaining Questions.* All other questions as to  
143 the form and content of the record must be presented to the  
144 court where the appeal is pending.

145 (f) **SEALED DOCUMENTS.** A document placed under  
146 seal by the bankruptcy court may be designated as part of the  
147 record on appeal. In doing so, a party must identify it without  
148 revealing confidential or secret information, but the bankruptcy  
149 clerk must not transmit it to the clerk of the court where the appeal  
150 is pending as part of the record. Instead, a party must file a motion  
151 with the court where the appeal is pending to accept the document  
152 under seal. If the motion is granted, the movant must notify the

153 bankruptcy court of the ruling, and the bankruptcy clerk must  
154 promptly transmit the sealed document to the clerk of the court  
155 where the appeal is pending.

156 (g) OTHER NECESSARY ACTIONS. All parties to an  
157 appeal must take any other action necessary to enable the  
158 bankruptcy clerk to assemble and transmit the record.

### COMMITTEE NOTE

This rule is derived from former Rule 8006 and F.R.App.P. 10 and 11(a). The provisions of this rule and Rule 8010 are applicable to appeals taken directly to a court of appeals under 28 U.S.C. § 158(d)(2), as well as to appeals to a district court or BAP. See F.R.App.P. 6(c)(2)(A) and (B).

The rule retains the practice of former Rule 8006 of requiring the parties to designate items to be included in the record on appeal. In this respect, the bankruptcy rule differs from the appellate rule. Among other things, F.R.App.P. 10(a) provides that the record on appeal consists of all the documents and exhibits filed in the case. This requirement would often be unworkable in a bankruptcy context because thousands of items might have been filed in the overall bankruptcy case.

Subdivision (a) provides the time period for an appellant to file a designation of items to be included in the record on appeal and a statement of the issues to be presented. It then provides for the designation of additional items by the appellee, cross-appellant, and cross-appellee, as well as for the cross-appellant's statement of the issues to be presented in its appeal. Subdivision (a)(4) prescribes the content of the record on appeal. Ordinarily, the bankruptcy clerk will not need to have paper copies of the designated items because the clerk will either transmit them to the appellate court electronically or otherwise make them available electronically. If the bankruptcy clerk requires a paper copy of some or all of the items designated as part of the record, the clerk may request the party that designated the item to provide the necessary copies, and the party must comply with the request or bear the cost of the clerk's copying.

Subdivision (b) governs the process for ordering a complete or partial transcript of the bankruptcy court proceedings. In situations in

which a transcript is unavailable, subdivision (c) allows for the parties' preparation of a statement of the evidence or proceedings, which must be approved by the bankruptcy court.

Subdivision (d) adopts the practice of F.R.App.P. 10(d) of permitting the parties to agree on a statement of the case in place of the record on appeal. The statement must show how the issues on appeal arose and were decided in the bankruptcy court. It must be approved by the bankruptcy court in order to be certified as the record on appeal.

Subdivision (e), modeled on F.R.App.P. 10(e), provides a procedure for correcting the record on appeal if an item is improperly designated, omitted, or misstated.

Subdivision (f) is a new provision that governs the handling of any document that remains sealed by the bankruptcy court and that a party wants to include in the record on appeal. The party must request the court where the appeal is pending to accept the document under seal, and that motion must be granted before the bankruptcy clerk may transmit the sealed document to the district, BAP, or circuit clerk.

Subdivision (g) requires the parties' cooperation with the bankruptcy clerk in assembling and transmitting the record. It retains the requirement of former Rule 8006, which was adapted from F.R.App.P. 11(a).

**Rule 8010. Completing and Transmitting the Record**

1 (a) REPORTER’S DUTIES.

2 (1) *Proceedings Recorded Without a Reporter*

3 *Present.* If proceedings were recorded without a reporter  
4 being present, the person or service that the bankruptcy  
5 court designates to transcribe the recording is the reporter  
6 for purposes of this rule.

7 (2) *Preparing and Filing the Transcript.* The  
8 reporter must prepare and file a transcript as follows:

9 (A) Upon receiving an order for a  
10 transcript, the reporter must file in the bankruptcy  
11 court an acknowledgment of the request that shows  
12 when it was received, and when the reporter expects  
13 to have the transcript completed.

14 (B) After completing the transcript, the  
15 reporter must file it with the bankruptcy clerk, who  
16 will notify the district, BAP, or circuit clerk of its  
17 filing.

18 (C) If the transcript cannot be completed  
19 within 30 days after receiving the order, the reporter  
20 must request an extension of time from the  
21 bankruptcy clerk. The clerk must enter on the



22 docket and notify the parties whether the extension  
23 is granted.

24 (D) If the reporter does not file the  
25 transcript on time, the bankruptcy clerk must notify  
26 the bankruptcy judge.

27 (b) CLERK'S DUTIES.

28 (1) *Transmitting the Record—In General.* Subject  
29 to Rule 8009(f) and subdivision (b)(5) of this rule, when  
30 the record is complete, the bankruptcy clerk must transmit  
31 to the clerk of the court where the appeal is pending either  
32 the record or a notice that the record is available  
33 electronically.

34 (2) *Multiple Appeals.* If there are multiple appeals  
35 from a judgment, order, or decree, the bankruptcy clerk  
36 must transmit a single record.

37 (3) *Receiving the Record.* Upon receiving the  
38 record or notice that it is available electronically, the  
39 district, BAP, or circuit clerk must enter that information  
40 on the docket and promptly notify all parties to the appeal.

41 (4) *If Paper Copies Are Ordered.* If the court  
42 where the appeal is pending directs that paper copies of the  
43 record be provided, the clerk of that court must so notify

44 the appellant. If the appellant fails to provide them, the  
45 bankruptcy clerk must prepare them at the appellant's  
46 expense.

47 (5) *When Leave to Appeal is Requested.* Subject to  
48 subdivision (c), if a motion for leave to appeal has been  
49 filed under Rule 8004, the bankruptcy clerk must prepare  
50 and transmit the record only after the district court, BAP, or  
51 court of appeals grants leave.

52 (c) RECORD FOR A PRELIMINARY MOTION IN THE  
53 DISTRICT COURT, BAP, OR COURT OF APPEALS. This  
54 subdivision (c) applies if, before the record is transmitted, a party  
55 moves in the district court, BAP, or court of appeals for any of the  
56 following relief:

- 57 • leave to appeal;
- 58 • dismissal;
- 59 • a stay pending appeal;
- 60 • approval of a supersedeas bond, or additional  
61 security on a bond or undertaking on appeal; or
- 62 • any other intermediate order.

63 The bankruptcy clerk must then transmit to the clerk of the court  
64 where the relief is sought any parts of the record designated by a

65 party to the appeal or a notice that those parts are available  
66 electronically.

### COMMITTEE NOTE

This rule is derived from former Rule 8007 and F.R.App. P 11. It applies to an appeal taken directly to a court of appeals under 28 U.S.C. § 158(d)(2), as well as to an appeal to a district court or BAP.

Subdivision (a) generally retains the procedure of former Rule 8007(a) regarding the reporter's duty to prepare and file a transcript if a party requests one. It clarifies that the person or service that transcribes the recording of a proceeding is considered the reporter under this rule if the proceeding is recorded without a reporter being present in the courtroom. It also makes clear that the reporter must file with the bankruptcy court the acknowledgment of the request for a transcript and statement of the expected completion date, the completed transcript, and any request for an extension of time beyond 30 days for completion of the transcript.

Subdivision (b) requires the bankruptcy clerk to transmit the record to the district, BAP or circuit clerk when the record is complete and, in the case of appeals under 28 U.S.C. §158(a)(3), leave to appeal has been granted. This transmission will be made electronically, either by sending the record itself or sending notice that the record can be accessed electronically. The court where the appeal is pending may, however, require that a paper copy of some or all of the record be furnished, in which case the clerk of that court will direct the appellant to provide the copies. If the appellant does not do so, the bankruptcy clerk must prepare the copies at the appellant's expense.

In a change from former Rule 8007(b), subdivision (b) of this rule no longer directs the clerk of the appellate court to docket the appeal upon receipt of the record from the bankruptcy clerk. Instead, under Rules 8003(d) and 8004(c) and F.R.App.P. 12(a), the district, BAP, or circuit clerk docket the appeal upon receipt of the notice of appeal or, in the case of appeals under 28 U.S.C. § 158(a)(3), the notice of appeal and the motion for leave to appeal. Accordingly, by the time the district, BAP, or circuit clerk receives the record, the appeal will already be docketed in that court. The clerk of the appellate court must indicate on the docket and give notice to the parties to the appeal when the transmission of the record is received.

Under Rule 8018(a) and F.R.App.P. 31, the briefing schedule is generally based on that date.

Subdivision (c) is derived from former Rule 8007(c) and F.R.App.P. 11(g) . It provides for the transmission of parts of the record that the parties designate for consideration by the district court, BAP, or court of appeals in ruling on specified preliminary motions filed prior to the preparation and transmission of the record on appeal.

**Rule 8011. Filing and Service; Signature**

1 (a) FILING.

2 (1) *With the Clerk.* A document required or  
3 permitted to be filed in a district court or BAP must be filed  
4 with the clerk of that court.

5 (2) *Method and Timeliness.*

6 (A) *In general.* Filing may be  
7 accomplished by transmission to the clerk of the  
8 district court or BAP. Except as provided in  
9 subdivision (a)(2)(B) and (C), filing is timely only  
10 if the clerk receives the document within the time  
11 fixed for filing.

12 (B) *Brief or Appendix.* A brief or appendix  
13 is also timely filed if, on or before the last day for  
14 filing, it is:

15 (i) mailed to the clerk by first-class  
16 mail—or other class of mail that is at least  
17 as expeditious—postage prepaid, if the  
18 district court’s or BAP’s procedures permit  
19 or require a brief or appendix to be filed by  
20 mailing; or

21 (ii) dispatched to a third-party

22 commercial carrier for delivery within 3  
23 days to the clerk, if the court's procedures so  
24 permit or require.

25 (C) *Inmate Filing*. A document filed by an  
26 inmate confined in an institution is timely if  
27 deposited in the institution's internal mailing  
28 system on or before the last day for filing. If the  
29 institution has a system designed for legal mail, the  
30 inmate must use that system to receive the benefit  
31 of this rule. Timely filing may be shown by a  
32 declaration in compliance with 28 U.S.C. § 1746 or  
33 by a notarized statement, either of which must set  
34 forth the date of deposit and state that first-class  
35 postage has been prepaid.

36 (D) *Copies*. If a document is filed  
37 electronically, no paper copy is required. If a  
38 document is filed by mail or delivery to the district  
39 court or BAP, no additional copies are required.  
40 But the district court or BAP may require by local  
41 rule or by order in a particular case the filing or  
42 furnishing of a specified number of paper copies.

43 (3) *Clerk's Refusal of Documents*. The court's

44 clerk must not refuse to accept for filing any document  
45 transmitted for that purpose solely because it is not  
46 presented in proper form as required by these rules or by  
47 any local rule or practice.

48 (b) SERVICE OF ALL DOCUMENTS REQUIRED.

49 Unless a rule requires service by the clerk, a party must, at or  
50 before the time of the filing of a document, serve it on the other  
51 parties to the appeal. Service on a party represented by counsel  
52 must be made on the party's counsel.

53 (c) MANNER OF SERVICE.

54 (1) *Methods*. Service must be made electronically,  
55 unless it is being made by or on an individual who is not  
56 represented by counsel or the court's governing rules  
57 permit or require service by mail or other means of  
58 delivery. Service may be made by or on an unrepresented  
59 party by any of the following methods:

60 (A) personal delivery;

61 (B) mail; or

62 (C) third-party commercial carrier for  
63 delivery within 3 days.

64 (2) *When Service Is Complete*. Service by  
65 electronic means is complete on transmission, unless the

66 party making service receives notice that the document was  
67 not transmitted successfully. Service by mail or by  
68 commercial carrier is complete on mailing or delivery to  
69 the carrier.

70 (d) PROOF OF SERVICE.

71 (1) *What Is Required.* A document presented for  
72 filing must contain either:

73 (A) an acknowledgment of service by the  
74 person served; or

75 (B) proof of service consisting of a  
76 statement by the person who made service  
77 certifying:

78 (i) the date and manner of service;

79 (ii) the names of the persons served;

80 and

81 (iii) the mail or electronic address,

82 the fax number, or the address of the place

83 of delivery, as appropriate for the manner of

84 service, for each person served.

85 (2) *Delayed Proof.* The district or BAP clerk may  
86 permit documents to be filed without acknowledgment or  
87 proof of service, but must require the acknowledgment or



88 proof to be filed promptly thereafter.

89 (3) *Brief or Appendix*. When a brief or appendix is  
90 filed, the proof of service must also state the date and  
91 manner by which it was filed.

92 (e) SIGNATURE. Every document filed electronically  
93 must include the electronic signature of the person filing it or, if  
94 the person is represented, the electronic signature of counsel. The  
95 electronic signature must be provided by electronic means that are  
96 consistent with any technical standards that the Judicial  
97 Conference of the United States establishes. Every document filed  
98 in paper form must be signed by the person filing the document or,  
99 if the person is represented, by counsel.

### COMMITTEE NOTE

This rule is derived from former Rule 8008 and F.R.App.P. 25. It adopts some of the additional details of the appellate rule, and it provides greater recognition of the possibility of electronic filing and service.

Subdivision (a) governs the filing of documents in the district court or BAP. Consistent with other provisions of these Part VIII rules, subdivision (a)(2) requires electronic filing of documents, including briefs and appendices, unless the district court's or BAP's procedures permit or require other methods of delivery to the court. An electronic filing is timely if it is received by the district or BAP clerk within the time fixed for filing. No additional copies need to be submitted when documents are filed electronically, by mail, or by delivery unless the district court or BAP requires them.

Subdivision (a)(3) provides that the district or BAP clerk may not refuse to accept a document for filing solely because its form does not comply with these rules or any local rule or practice. The district court or

BAP may, however, direct the correction of any deficiency in any document that does not conform to the requirements of these rules or applicable local rules, and may prescribe such other relief as the court deems appropriate.

Subdivisions (b) and (c) address the service of documents in the district court or BAP. Except for documents that the district or BAP clerk must serve, a party that makes a filing must serve copies of the document on the other parties to the appeal. Service on represented parties must be made on counsel. Subdivision (c) expresses the general requirement under these Part VIII rules that documents be sent electronically. *See* Rule 8001(c). Local court rules, however, may provide for other means of service, and subdivision (c) specifies non-electronic methods of service by or on an unrepresented party. Electronic service is complete upon transmission, unless the party making service receives notice that the transmission did not reach the person intended to be served in a readable form.

Subdivision (d) retains the former rule's provisions regarding proof of service of a document filed in the district court or BAP. In addition, it provides that a certificate of service must state the mail or electronic address or fax number to which service was made.

Subdivision (e) is a new provision that requires an electronic signature of counsel or an unrepresented filer for documents that are filed electronically in the district court or BAP. A local rule may specify a method of providing an electronic signature that is consistent with any standards established by the Judicial Conference of the United States. Paper copies of documents filed in the district court or BAP must bear an actual signature of counsel or the filer. By requiring a signature, subdivision (e) ensures that a readily identifiable attorney or party takes responsibility for every document that is filed.

**Rule 8012. Corporate Disclosure Statement**

1           (a) WHO MUST FILE. Any nongovernmental corporate  
2 party appearing in the district court or BAP must file a statement  
3 that identifies any parent corporation and any publicly held  
4 corporation that owns 10% or more of its stock or states that there  
5 is no such corporation.

6           (b) TIME TO FILE; SUPPLEMENTAL FILING. A party  
7 must file the statement with its principal brief or upon filing a  
8 motion, response, petition, or answer in the district court or BAP,  
9 whichever occurs first, unless a local rule requires earlier filing.  
10 Even if the statement has already been filed, the party’s principal  
11 brief must include a statement before the table of contents. A party  
12 must supplement its statement whenever the required information  
13 changes.

**COMMITTEE NOTE**

This rule is derived from F.R.App.P. 26.1. It requires the filing of corporate disclosure statements and supplemental statements in order to assist district court and BAP judges in determining whether they should recuse themselves. If filed separately from a brief, motion, response, petition, or answer, the statement must be filed and served in accordance with Rule 8011. Under Rule 8015(a)(7)(B)(iii), the corporate disclosure statement is not included in calculating applicable word-count limitations.

**Rule 8013. Motions; Intervention**

1 (a) CONTENTS OF A MOTION; RESPONSE; REPLY.

2 (1) *Request for Relief.* A request for an order or  
3 other relief is made by filing a motion with the district or  
4 BAP clerk, with proof of service on the other parties to the  
5 appeal.

6 (2) *Contents of a Motion.*

7 (A) *Grounds and the Relief Sought.* A  
8 motion must state with particularity the grounds for  
9 the motion, the relief sought, and the legal argument  
10 necessary to support it.

11 (B) *Motion to Expedite an Appeal.* A  
12 motion to expedite an appeal must explain what  
13 justifies considering the appeal ahead of other  
14 matters. If the district court or BAP grants the  
15 motion, it may accelerate the time to transmit the  
16 record, the deadline for filing briefs and other  
17 documents, oral argument, and the resolution of the  
18 appeal. A motion to expedite an appeal may be  
19 filed as an emergency motion under subdivision (d).

20 (C) *Accompanying Documents.*

21 (i) Any affidavit or other document

22 necessary to support a motion must be  
23 served and filed with the motion.

24 (ii) An affidavit must contain only  
25 factual information, not legal argument.

26 (iii) A motion seeking substantive  
27 relief must include a copy of the bankruptcy  
28 court's judgment, order, or decree, and any  
29 accompanying opinion as a separate exhibit.

30 (D) *Documents Barred or Not Required.*

31 (i) A separate brief supporting or  
32 responding to a motion must not be filed.

33 (ii) A notice of motion is not  
34 required.

35 (iii) A proposed order is not  
36 required.

37 (3) *Response and Reply; Time to File.* Unless the  
38 district court or BAP orders otherwise,

39 (A) any party to the appeal may file a  
40 response to the motion within 7 days after service of  
41 the motion; and

42 (B) the movant may file a reply to a  
43 response within 7 days after service of the response,

44 but may only address matters raised in the response.

45 (b) DISPOSITION OF A MOTION FOR A

46 PROCEDURAL ORDER. The district court or BAP may rule on a  
47 motion for a procedural order—including a motion under Rule  
48 9006(b) or (c)—at any time without awaiting a response. A party  
49 adversely affected by the ruling may move to reconsider, vacate, or  
50 modify it within 7 days after the procedural order is served.

51 (c) ORAL ARGUMENT. A motion will be decided  
52 without oral argument unless the district court or BAP orders  
53 otherwise.

54 (d) EMERGENCY MOTION.

55 (1) *Noting the Emergency.* When a movant  
56 requests expedited action on a motion because irreparable  
57 harm would occur during the time needed to consider a  
58 response, the movant must insert the word “Emergency”  
59 before the title of the motion.

60 (2) *Contents of the Motion.* The emergency motion  
61 must

62 (A) be accompanied by an affidavit setting  
63 out the nature of the emergency;

64 (B) state whether all grounds for it were  
65 submitted to the bankruptcy court and, if not, why

66 the motion should not be remanded for the  
67 bankruptcy court to reconsider;

68 (C) include the e-mail addresses, office  
69 addresses, and telephone numbers of moving  
70 counsel and, when known, of opposing counsel and  
71 any unrepresented parties to the appeal; and

72 (D) be served as prescribed by Rule 8011.

73 (3) *Notifying Opposing Parties.* Before filing an  
74 emergency motion, the movant must make every  
75 practicable effort to notify opposing counsel and any  
76 unrepresented parties in time for them to respond. The  
77 affidavit accompanying the emergency motion must state  
78 when and how notice was given or state why giving it was  
79 impracticable.

80 (e) POWER OF A SINGLE BAP JUDGE TO  
81 ENTERTAIN A MOTION.

82 (1) *Single Judge's Authority.* A BAP judge may  
83 act alone on any motion, but may not dismiss or otherwise  
84 determine an appeal, deny a motion for leave to appeal, or  
85 deny a motion for a stay pending appeal if denial would  
86 make the appeal moot.

87 (2) *Reviewing a Single Judge's Action.* The BAP

88 may review a single judge's action, either on its own  
89 motion or on a party's motion.

90 (f) FORM OF DOCUMENTS; PAGE LIMITS; NUMBER  
91 OF COPIES.

92 (1) *Format of a Paper Document.* Rule 27(d)(1)  
93 F.R.App.P. applies in the district court or BAP to a paper  
94 version of a motion, response, or reply.

95 (2) *Format of an Electronically Filed Document.*  
96 A motion, response, or reply filed electronically must  
97 comply with the requirements for a paper version regarding  
98 covers, line spacing, margins, typeface, and type style. It  
99 must also comply with the page limits under paragraph (3).

100 (3) *Page Limits.* Unless the district court or BAP  
101 orders otherwise:

102 (A) a motion or a response to a motion must  
103 not exceed 20 pages, exclusive of the corporate  
104 disclosure statement and accompanying documents  
105 authorized by subdivision (a)(2)(C); and

106 (B) a reply to a response must not exceed  
107 10 pages.

108 (4) *Paper Copies.* Paper copies must be provided



109                   only if required by local rule or by an order in a particular  
110                   case.  
111                   (g) INTERVENING IN AN APPEAL. Unless a statute  
112                   provides otherwise, an entity that seeks to intervene in an appeal  
113                   pending in the district court or BAP must move for leave to  
114                   intervene and serve a copy of the motion on the parties to the  
115                   appeal. The motion or other notice of intervention authorized by  
116                   statute must be filed within 30 days after the appeal is docketed. It  
117                   must concisely state the movant's interest, the grounds for  
118                   intervention, whether intervention was sought in the bankruptcy  
119                   court, why intervention is being sought at this stage of the  
120                   proceeding, and why participating as an amicus curiae would not  
121                   be adequate.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8011 and F.R.App.P. 15(d) and 27. It adopts many of the provisions of the appellate rules that specify the form and page limits of motions and accompanying documents, while also adjusting those requirements for electronic filing. In addition, it prescribes the procedure for seeking to intervene in the district court or BAP.

Subdivision (a) retains much of the content of former Rule 8011(a) regarding the contents of a motion, response, and reply. It also specifies the documents that may accompany a motion. Unlike the former rule, which allowed the filing of separate briefs supporting a motion, subdivision (a) now adopts the practice of F.R.App.P. 27(a) of prohibiting the filing of briefs supporting or responding to a motion. The motion or response itself must include the party's legal arguments.

Subdivision (a)(2)(B) clarifies the procedure for seeking to expedite

an appeal. A motion under this provision seeks to expedite the time for the disposition of the appeal as a whole, whereas an emergency motion—which is addressed by subdivision (d)—typically involves an urgent request for relief short of disposing of the entire appeal (for example, an emergency request for a stay pending appeal to prevent imminent mootness). In appropriate cases—such as when there is an urgent need to resolve the appeal quickly to prevent harm—a party may file a motion to expedite the appeal as an emergency motion.

Subdivision (b) retains the substance of former Rule 8011(b). It authorizes the district court or BAP to act on a motion for a procedural order without awaiting a response to the motion. It specifies that a party seeking reconsideration, vacation, or modification of the order must file a motion within 7 days after service of the order.

Subdivision (c) continues the practice of former Rule 8011(c) and F.R.App.P. 27(e) of dispensing with oral argument of motions in the district court or BAP unless the court orders otherwise.

Subdivision (d), which carries forward the content of former Rule 8011(d), governs emergency motions that the district court or BAP may rule on without awaiting a response when necessary to prevent irreparable harm. A party seeking expedited action on a motion in the district court or BAP must explain the nature of the emergency, whether all grounds in support of the motion were first presented to the bankruptcy court, and, if not, why the district court or BAP should not remand for reconsideration. The moving party must also explain the steps taken to notify opposing counsel and any unrepresented parties in advance of filing the emergency motion and, if they were not notified, why it was impracticable to do so.

Subdivision (e), like former Rule 8011(e) and similar to F.R.App.P. 27(c), authorizes a single BAP judge to rule on certain motions. This authority, however, does not extend to issuing rulings that would dispose of the appeal. For that reason, the rule now prohibits a single BAP judge from denying a motion for a stay pending appeal when the effect of that ruling would be to require dismissal of the appeal as moot. A ruling by a single judge is subject to review by the BAP.

Subdivision (f) incorporates by reference the formatting and appearance requirements of F.R.App.P. 27(d)(1). When paper versions of the listed documents are filed, they must comply with the requirements of the specified rules regarding reproduction, covers, binding, appearance, and format. When these documents are filed electronically, they must comply with the relevant requirements of the specified rules regarding covers and

format. Subdivision (f) also specifies page limits for motions, responses, and replies, which is a matter that former Rule 8011 did not address.

Subdivision (g) clarifies the procedure for seeking to intervene in a proceeding that has been appealed. It is based on F.R.App.P. 15(d), but it also requires the moving party to explain why intervention is being sought at the appellate stage. The former Part VIII rules did not address intervention.

**Rule 8014. Briefs**

1           (a) APPELLANT’S BRIEF. The appellant’s brief must  
2 contain the following under appropriate headings and in the order  
3 indicated:

4                   (1) a corporate disclosure statement, if required by  
5 Rule 8012;

6                   (2) a table of contents, with page references;

7                   (3) a table of authorities—cases (alphabetically  
8 arranged), statutes, and other authorities—with references  
9 to the pages of the brief where they are cited;

10                  (4) a jurisdictional statement, including:

11                           (A) the basis for the bankruptcy court’s  
12 subject-matter jurisdiction, with citations to  
13 applicable statutory provisions and stating relevant  
14 facts establishing jurisdiction;

15                           (B) the basis for the district court’s or  
16 BAP’s jurisdiction, with citations to applicable  
17 statutory provisions and stating relevant facts  
18 establishing jurisdiction;

19                           (C) the filing dates establishing the  
20 timeliness of the appeal; and

21                           (D) an assertion that the appeal is from a

- 22 final judgment, order, or decree, or information  
23 establishing the district court's or BAP's  
24 jurisdiction on another basis;
- 25 (5) a statement of the issues presented and, for each  
26 one, a concise statement of the applicable standard of  
27 appellate review;
- 28 (6) a concise statement of the case setting out the  
29 facts relevant to the issues submitted for review, describing  
30 the relevant procedural history, and identifying the rulings  
31 presented for review, with appropriate references to the  
32 record;
- 33 (7) a summary of the argument, which must contain  
34 a succinct, clear, and accurate statement of the arguments  
35 made in the body of the brief, and which must not merely  
36 repeat the argument headings;
- 37 (8) the argument, which must contain the  
38 appellant's contentions and the reasons for them, with  
39 citations to the authorities and parts of the record on which  
40 the appellant relies;
- 41 (9) a short conclusion stating the precise relief  
42 sought; and
- 43 (10) the certificate of compliance, if required by

44 Rule 8015(a)(7) or (b).

45 (b) APPELLEE’S BRIEF. The appellee’s brief must  
46 conform to the requirements of subdivision (a)(1)-(8) and (10),  
47 except that none of the following need appear unless the appellee  
48 is dissatisfied with the appellant’s statement:

49 (1) the jurisdictional statement;

50 (2) the statement of the issues and the applicable  
51 standard of appellate review; and

52 (3) the statement of the case.

53 (c) REPLY BRIEF. The appellant may file a brief in reply  
54 to the appellee’s brief. A reply brief must comply with the  
55 requirements of subdivision (a)(2)-(3).

56 (d) STATUTES, RULES, REGULATIONS, OR  
57 SIMILAR AUTHORITY. If the court’s determination of the  
58 issues presented requires the study of the Code or other statutes,  
59 rules, regulations, or similar authority, the relevant parts must be  
60 set out in the brief or in an addendum.

61 (e) BRIEFS IN A CASE INVOLVING MULTIPLE  
62 APPELLANTS OR APPELLEES. In a case involving more than  
63 one appellant or appellee, including consolidated cases, any  
64 number of appellants or appellees may join in a brief, and any  
65 party may adopt by reference a part of another’s brief. Parties may

66 also join in reply briefs.

77 (f) CITATION OF SUPPLEMENTAL AUTHORITIES.

78 If pertinent and significant authorities come to a party's attention

79 after the party's brief has been filed—or after oral argument but

80 before a decision—a party may promptly advise the district or

81 BAP clerk by a signed submission setting forth the citations. The

82 submission, which must be served on the other parties to the

83 appeal, must state the reasons for the supplemental citations,

84 referring either to the pertinent page of a brief or to a point argued

85 orally. The body of the submission must not exceed 350 words.

86 Any response must be made within 7 days after the party is served,

87 unless the court orders otherwise, and must be similarly limited.

### COMMITTEE NOTE

This rule is derived from former Rule 8010(a) and (b) and F.R.App.P. 28. Adopting much of the content of Rule 28, it provides greater detail than former Rule 8010 contained regarding appellate briefs.

Subdivision (a) prescribes the content and structure of the appellant's brief. It largely follows former Rule 8010(a)(1), but, to ensure national uniformity, it eliminates the provision authorizing a district court or BAP to alter these requirements. Subdivision (a)(1) provides that when Rule 8012 requires an appellant to file a corporate disclosure statement, it must be placed at the beginning of the appellant's brief. Subdivision (a)(10) is new. It implements the requirement under Rule 8015(a)(7)(C) and (b) for the filing of a certificate of compliance with the limit on the number of words or lines allowed to be in a brief.

Subdivision (b) carries forward the provisions of former Rule 8010(a)(2).

Subdivision (c) is derived from F.R.App.P. 28(c). It authorizes an appellant to file a reply brief, which will generally complete the briefing process.

Subdivision (d) is similar to former Rule 8010(b), but it is reworded to reflect the likelihood that briefs will generally be filed electronically rather than in paper form.

Subdivision (e) mirrors F.R.App.P. 28(i). It authorizes multiple appellants or appellees to join in a single brief. It also allows a party to incorporate by reference portions of another party's brief.

Subdivision (f) adopts the procedures of F.R.App.P. 28(j) with respect to the filing of supplemental authorities with the district court or BAP after a brief has been filed or after oral argument. Unlike the appellate rule, it specifies a period of 7 days for filing a response to a submission of supplemental authorities. The supplemental submission and response must comply with the signature requirements of Rule 8011(e).



**Rule 8015. Form and Length of Briefs; Form of Appendices and Other Papers.**

1 (a) PAPER COPIES OF A BRIEF. If a paper copy of a  
2 brief may or must be filed, the following provisions apply:

3 (1) *Reproduction.*

4 (A) A brief may be reproduced by any  
5 process that yields a clear black image on light  
6 paper. The paper must be opaque and unglazed.  
7 Only one side of the paper may be used.

8 (B) Text must be reproduced with a clarity  
9 that equals or exceeds the output of a laser printer.

10 (C) Photographs, illustrations, and tables  
11 may be reproduced by any method that results in a  
12 good copy of the original. A glossy finish is  
13 acceptable if the original is glossy.

14 (2) *Cover.* The front cover of a brief must contain:

15 (A) the number of the case centered at the  
16 top;

17 (B) the name of the court;

18 (C) the title of the case as prescribed by  
19 Rule 8003(d)(2) or 8004(c)(2);

20 (D) the nature of the proceeding and the  
21 name of the court below;

22 (E) the title of the brief, identifying the  
23 party or parties for whom the brief is filed; and  
24 (F) the name, office address, telephone  
25 number, and e-mail address of counsel representing  
26 the party for whom the brief is filed.

27 (3) *Binding*. The brief must be bound in any  
28 manner that is secure, does not obscure the text, and  
29 permits the brief to lie reasonably flat when open.

30 (4) *Paper Size, Line Spacing, and Margins*. The  
31 brief must be on 8½-by-11 inch paper. The text must be  
32 double-spaced, but quotations more than two lines long  
33 may be indented and single-spaced. Headings and  
34 footnotes may be single-spaced. Margins must be at least  
35 one inch on all four sides. Page numbers may be placed in  
36 the margins, but no text may appear there.

37 (5) *Typeface*. Either a proportionally spaced or  
38 monospaced face may be used.

39 (A) A proportionally spaced face must  
40 include serifs, but sans-serif type may be used in  
41 headings and captions. A proportionally spaced  
42 face must be 14-point or larger.

43 (B) A monospaced face may not contain

44 more than 10½ characters per inch.

45 (6) *Type Styles.* A brief must be set in plain, roman  
46 style, although italics or boldface may be used for  
47 emphasis. Case names must be italicized or underlined.

48 (7) *Length.*

49 (A) *Page limitation.* A principal brief must  
50 not exceed 30 pages, or a reply brief 15 pages,  
51 unless it complies with (B) and (C).

52 (B) *Type-volume limitation.*

53 (i) A principal brief is acceptable if:

- 54 • it contains no more
- 55 than 14,000 words; or
- 56 • it uses a monospaced
- 57 face and contains no more
- 58 than 1,300 lines of text.

59 (ii) A reply brief is acceptable if it  
60 contains no more than half of the type  
61 volume specified in item (i).

62 (iii) Headings, footnotes, and  
63 quotations count toward the word and line  
64 limitations. The corporate disclosure  
65 statement, table of contents, table of

66 citations, statement with respect to oral  
67 argument, any addendum containing  
68 statutes, rules, or regulations, and any  
69 certificates of counsel do not count toward  
70 the limitation.

71 (C) *Certificate of Compliance.*

72 (i) A brief submitted under  
73 subdivision (a)(7)(B) must include a  
74 certificate signed by the attorney, or an  
75 unrepresented party, that the brief complies  
76 with the type-volume limitation. The person  
77 preparing the certificate may rely on the  
78 word or line count of the word-processing  
79 system used to prepare the brief. The  
80 certificate must state either:

- 81 • the number of words in the
- 82 brief; or
- 83 • the number of lines of
- 84 monospaced type in the brief.

85 (ii) The certification requirement is  
86 satisfied by a certificate of compliance that  
87 conforms substantially to the appropriate

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Official Form.

(b) ELECTRONICALLY FILED BRIEFS. A brief filed electronically must comply with subdivision (a), except for (a)(1), (a)(3), and the paper requirement of (a)(4).

(c) PAPER COPIES OF APPENDICES. A paper copy of an appendix must comply with subdivision (a)(1), (2), (3), and (4), with the following exceptions:

(1) An appendix may include a legible photocopy of any document found in the record or of a printed decision.

(2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8½-by-11 inches, and need not lie reasonably flat when opened.

(d) ELECTRONICALLY FILED APPENDICES. An appendix filed electronically must comply with subdivision (a)(2) and (4), except for the paper requirement of (a)(4).

(e) OTHER DOCUMENTS.

(1) *Motion*. Rule 8013(f) governs the form of a motion, response, or reply.

(2) *Paper Copies of Other Documents*. A paper copy of any other document, other than a submission under

110 Rule 8014(f), must comply with subdivision (a), with the  
111 following exceptions:

112 (A) A cover is not necessary if the caption  
113 and signature page together contain the information  
114 required by subdivision (a)(2).

115 (B) Subdivision (a)(7) does not apply.

116 (3) *Other Documents Filed Electronically.* Any  
117 other document filed electronically, other than a  
118 submission under Rule 8014(f), must comply with the  
119 appearance requirements of paragraph (2).

120 (f) LOCAL VARIATION. A district court or BAP must  
121 accept documents that comply with the applicable requirements of  
122 this rule. By local rule or order in a particular case, a district court  
123 or BAP may accept documents that do not meet all of the  
124 requirements of this rule.

#### COMMITTEE NOTE

This rule is derived primarily from F.R.App.P. 32. Former Rule 8010(c) prescribed page limits for principal briefs and reply briefs. Those limits are now addressed by subdivision (a)(7) of this rule. In addition, the rule incorporates most of the detail of F.R.App.P. 32 regarding the appearance and format of briefs, appendices, and other documents, along with new provisions that apply when those documents are filed electronically.

Subdivision (a) prescribes the form requirements for briefs that are filed in paper form. It incorporates F.R.App.P. 32(a), except it does not include color requirements for brief covers, it requires the cover of a brief to

include counsel's e-mail address, and cross-references to the appropriate bankruptcy rules are substituted for references to the Federal Rules of Appellate Procedure.

Subdivision (a)(7) decreases the page limits that were permitted by former Rule 8010(c)—from 50 to 30 pages for a principal brief and from 25 to 15 for a reply brief—to achieve consistency with F.R.App.P. 32(a)(7). It also permits the limits on the length of a brief to be measured by a word or line count, as an alternative to a page limit. By adopting the same limits on brief length that the Federal Rules of Appellate Procedure impose, the amendment seeks to prevent a party whose case is eventually appealed to the court of appeals from having to substantially reduce the length of its brief in that court.

Subdivision (b) adapts for briefs that are electronically filed subdivision (a)'s form requirements. With the use of electronic filing, the method of reproduction, method of binding, and use of paper become irrelevant. But information required on the cover, formatting requirements, and limits on brief length remain the same.

Subdivisions (c) and (d) prescribe the form requirements for appendices. Subdivision (c), applicable to paper appendices, is derived from F.R.App.P. 32(b), and subdivision (d) adapts those requirements for electronically filed appendices.

Subdivision (e), which is based on F.R.App.P. 32(c), addresses the form required for documents—in paper form or electronically filed—that these rules do not otherwise cover.

Subdivision (f), like F.R.App.P. 32(e), provides assurance to lawyers and parties that compliance with this rule's form requirements will allow a brief or other document to be accepted by any district court or BAP. A court may, however, by local rule or by order in a particular case choose to accept briefs and documents that do not comply with all of this rule's requirements.

Under Rule 8011(e), the party filing the document or, if represented, its counsel must sign all briefs and other submissions. If the document is filed electronically, an electronic signature must be provided in accordance with Rule 8011(e).

**Rule 8016. Cross-Appeals**

1           (a) APPLICABILITY. This rule applies to a case in which  
2 a cross-appeal is filed. Rules 8014(a)-(c), 8015(a)(7)(A)-(B), and  
3 8018(a) do not apply to such a case, except as otherwise provided  
4 in this rule.

5           (b) DESIGNATION OF APPELLANT. The party who  
6 files a notice of appeal first is the appellant for purposes of this  
7 rule and Rules 8018(b) and 8019. If notices are filed on the same  
8 day, the plaintiff, petitioner, applicant, or movant in the proceeding  
9 below is the appellant. These designations may be modified by the  
10 parties' agreement or by court order.

11           (c) BRIEFS. In a case involving a cross-appeal:

12                   (1) *Appellant's Principal Brief.* The appellant must  
13 file a principal brief in the appeal. That brief must comply  
14 with Rule 8014(a).

15                   (2) *Appellee's Principal and Response Brief.* The  
16 appellee must file a principal brief in the cross-appeal and  
17 must, in the same brief, respond to the principal brief in the  
18 appeal. That brief must comply with Rule 8014(a), except  
19 that the brief need not include a statement of the case  
20 unless the appellee is dissatisfied with the appellant's  
21 statement.



22                                   (3) *Appellant's Response and Reply Brief.* The  
23 appellant must file a brief that responds to the principal  
24 brief in the cross-appeal and may, in the same brief, reply  
25 to the response in the appeal. That brief must comply with  
26 Rule 8014(a)(2)-(8) and (10), except that none of the  
27 following need appear unless the appellant is dissatisfied  
28 with the appellee's statement in the cross-appeal:

- 29                                   (A) the jurisdictional statement;
- 30                                   (B) the statement of the issues and the  
31 applicable standard of appellate review; and
- 32                                   (C) the statement of the case.

33                                   (4) *Appellee's Reply Brief.* The appellee may file a  
34 brief in reply to the response in the cross-appeal. That brief  
35 must comply with Rule 8014(a)(2)-(3) and (10) and must  
36 be limited to the issues presented by the cross-appeal.

37 (d) LENGTH.

38                                   (1) *Page Limitation.* Unless it complies with  
39 paragraphs (2) and (3), the appellant's principal brief must  
40 not exceed 30 pages; the appellee's principal and response  
41 brief, 35 pages; the appellant's response and reply brief, 30  
42 pages; and the appellee's reply brief, 15 pages.

43                                   (2) *Type-Volume Limitation.*

44 (A) The appellant’s principal brief or the  
45 appellant’s response and reply brief is acceptable if:  
46 (i) it contains no more than 14,000  
47 words; or  
48 (ii) it uses a monospaced face and  
49 contains no more than 1,300 lines of text.  
50 (B) The appellee’s principal and response  
51 brief is acceptable if:  
52 (i) it contains no more than 16,500  
53 words; or  
54 (ii) it uses a monospaced face and  
55 contains no more than 1,500 lines of text.  
56 (C) The appellee’s reply brief is acceptable  
57 if it contains no more than half of the type volume  
58 specified in subparagraph (A).  
59 (3) *Certificate of Compliance*. A brief submitted  
60 either electronically or in paper form under paragraph (2)  
61 must comply with Rule 8015(a)(7)(C).  
62 (e) TIME TO SERVE AND FILE A BRIEF. Briefs must  
63 be served and filed as follows, unless the district court or BAP by  
64 order in a particular case excuses the filing of briefs or specifies  
65 different time limits:

66 (1) the appellant's principal brief, within 30 days  
67 after the docketing of notice that the record has been  
68 transmitted or is available electronically;

69 (2) the appellee's principal and response brief,  
70 within 30 days after the appellant's principal brief is  
71 served;

72 (3) the appellant's response and reply brief, within  
73 30 days after the appellee's principal and response brief is  
74 served; and

75 (4) the appellee's reply brief, within 14 days after  
76 the appellant's response and reply brief is served, but at  
77 least 7 days before scheduled argument unless the district  
78 court or BAP, for good cause, allows a later filing.

79 (f) FAILURE TO FILE ON TIME. If an appellant or  
80 appellee fails to file a principal brief on time, or within an  
81 extended time authorized by the district court or BAP, the appeal  
82 or cross-appeal may be dismissed. Unless the district court or  
83 BAP orders otherwise, an appellee who fails to file a responsive  
84 brief will not be heard at oral argument on the appeal, and an  
85 appellant who fails to file a responsive brief will not be heard at  
86 oral argument on the cross-appeal.

## COMMITTEE NOTE

This rule is derived from F.R.App.P. 28.1. It governs the timing, content, length, filing, and service of briefs in bankruptcy appeals in which there is a cross-appeal. The former Part VIII rules did not separately address the topic of cross-appeals.

Subdivision (b) prescribes which party is designated the appellant when there is a cross-appeal. Generally, the first to file a notice of appeal will be the appellant.

Subdivision (c) specifies the briefs that the appellant and the appellee may file. Because of the dual role of the parties to the appeal and cross-appeal, each party is permitted to file a principal brief and a response to the opposing party's brief, as well as a reply brief. For the appellee, the principal brief in the cross-appeal and the response in the appeal are combined into a single brief. The appellant, on the other hand, initially files a principal brief in the appeal and later files a response to the appellee's principal brief in the cross-appeal, along with a reply brief in the appeal. The final brief that may be filed is the appellee's reply brief in the cross-appeal.

Subdivision (d), which prescribes page limits for briefs, is adopted from F.R.App.P. 28.1(e). It applies to briefs that are filed electronically, as well as to those filed in paper form. Like Rule 8015(a)(7), it imposes limits measured by either the number of pages or the number of words or lines of text.

Subdivision (e) governs the time for filing briefs in cases in which there is a cross-appeal. It adapts the provisions of F.R.App.P. 28.1(f).

Subdivision (f) authorizes the dismissal of an appeal or cross-appeal if the appellant or cross-appellant fails to timely file a principal brief, and it denies oral argument to a party who fails to file a responsive brief unless the district court or BAP orders otherwise.

**Rule 8017. Brief of an Amicus Curiae**

1           (a) WHEN PERMITTED. The United States or its officer  
2           or agency or a state may file an amicus-curiae brief without the  
3           consent of the parties or leave of court. Any other amicus curiae  
4           may file a brief only by leave of court or if the brief states that all  
5           parties have consented to its filing. On its own motion, and with  
6           notice to all parties to an appeal, the district court or BAP may  
7           request a brief by an amicus curiae.

8           (b) MOTION FOR LEAVE TO FILE. The motion must  
9           be accompanied by the proposed brief and state:

- 10                   (1) the movant’s interest; and  
11                   (2) the reason why an amicus brief is desirable and  
12                   why the matters asserted are relevant to the disposition of  
13                   the appeal.

14           (c) CONTENTS AND FORM. An amicus brief must  
15           comply with Rule 8015. In addition to the requirements of Rule  
16           8015, the cover must identify the party or parties supported and  
17           indicate whether the brief supports affirmance or reversal. If an  
18           amicus curiae is a corporation, the brief must include a disclosure  
19           statement like that required of parties by Rule 8012. An amicus  
20           brief need not comply with Rule 8014, but must include the  
21           following:

- 22 (1) a table of contents, with page references;
- 23 (2) a table of authorities—cases (alphabetically  
24 arranged), statutes, and other authorities—with references  
25 to the pages of the brief where they are cited;
- 26 (3) a concise statement of the identity of the amicus  
27 curiae, its interest in the case, and the source of its  
28 authority to file;
- 29 (4) unless the amicus curiae is one listed in the first  
30 sentence of subdivision (a), a statement that indicates  
31 whether:
- 32 (A) a party’s counsel authored the brief in  
33 whole or in part;
- 34 (B) a party or a party’s counsel contributed  
35 money that was intended to fund preparing or  
36 submitting the brief; and
- 37 (C) a person—other than the amicus curiae,  
38 its members, or its counsel—contributed money that  
39 was intended to fund preparing or submitting the  
40 brief and, if so, identifies each such person;
- 41 (5) an argument, which may be preceded by a  
42 summary and need not include a statement of the applicable  
43 standard of review; and

44 (6) a certificate of compliance, if required by Rule  
45 8015(a)(7)(C) or 8015(b).

46 (d) LENGTH. Except by the district court's or BAP's  
47 permission, an amicus brief must be no more than one-half the  
48 maximum length authorized by these rules for a party's principal  
49 brief. If the court grants a party permission to file a longer brief,  
50 that extension does not affect the length of an amicus brief.

51 (e) TIME FOR FILING. An amicus curiae must file its  
52 brief, accompanied by a motion for filing when necessary, no later  
53 than 7 days after the principal brief of the party being supported is  
54 filed. An amicus curiae that does not support either party must file  
55 its brief no later than 7 days after the appellant's principal brief is  
56 filed. The district court or BAP may grant leave for later filing,  
57 specifying the time within which an opposing party may answer.

58 (f) REPLY BRIEF. Except by the district court's or  
59 BAP's permission, an amicus curiae may not file a reply brief.

60 (g) ORAL ARGUMENT. An amicus curiae may  
61 participate in oral argument only with the district court's or BAP's  
62 permission.

## COMMITTEE NOTE

This rule is derived from F.R.App.P. 29. The former Part VIII rules did not address the participation by an amicus curiae in a bankruptcy appeal.

Subdivision (a) adopts the provisions of F.R.App.P. 29(a). In addition, it authorizes the district court or BAP on its own motion— with notice to the parties—to request the filing of a brief by an amicus curiae.

Subdivisions (b)-(g) adopt F.R.App.P. 29(b)-(g).



**Rule 8018. Serving and Filing Briefs; Appendices**

1           (a) TIME TO SERVE AND FILE A BRIEF. The  
2 following rules apply unless the district court or BAP by order in a  
3 particular case excuses the filing of briefs or specifies different  
4 time limits:

5                   (1) The appellant must serve and file a brief within  
6 30 days after the docketing of notice that the record has  
7 been transmitted or is available electronically.

8                   (2) The appellee must serve and file a brief within  
9 30 days after service of the appellant’s brief.

10                  (3) The appellant may serve and file a reply brief  
11 within 14 days after service of the appellee’s brief, but a  
12 reply brief must be filed at least 7 days before scheduled  
13 argument unless the district court or BAP, for good cause,  
14 allows a later filing.

15                  (4) If an appellant fails to file a brief on time or  
16 within an extended time authorized by the district court or  
17 BAP, the appeal may be dismissed. An appellee who fails  
18 to file a brief will not be heard at oral argument unless the  
19 district court or BAP grants permission.

20           (b) DUTY TO SERVE AND FILE AN APPENDIX TO  
21 THE BRIEF.

22 (1) *Appellant*. Subject to subdivision (e) and Rule  
23 8009(d), the appellant must serve and file with its principal  
24 brief excerpts of the record as an appendix. It must contain  
25 the following:

26 (A) the relevant entries in the bankruptcy  
27 docket;

28 (B) the complaint and answer, or other  
29 equivalent filings;

30 (C) the judgment, order, or decree from  
31 which the appeal is taken;

32 (D) any other orders, pleadings, jury  
33 instructions, findings, conclusions, or opinions  
34 relevant to the appeal;

35 (E) the notice of appeal; and

36 (F) any relevant transcript or portion of it.

37 (2) *Appellee*. The appellee may also serve and file  
38 with its brief an appendix that contains material required to  
39 be included by the appellant or relevant to the appeal or  
40 cross-appeal, but omitted by the appellant.

41 (3) *Cross-Appellee*. The appellant as cross-  
42 appellee may also serve and file with its response an  
43 appendix that contains material relevant to matters raised

44 initially by the principal brief in the cross-appeal, but  
45 omitted by the cross-appellant.

46 (c) **FORMAT OF THE APPENDIX.** The appendix must  
47 begin with a table of contents identifying the page at which each  
48 part begins. The relevant docket entries must follow the table of  
49 contents. Other parts of the record must follow chronologically.  
50 When pages from the transcript of proceedings are placed in the  
51 appendix, the transcript page numbers must be shown in brackets  
52 immediately before the included pages. Omissions in the text of  
53 documents or of the transcript must be indicated by asterisks.  
54 Immaterial formal matters (captions, subscriptions,  
55 acknowledgments, and the like) should be omitted.

56 (d) **EXHIBITS.** Exhibits designated for inclusion in the  
57 appendix may be reproduced in a separate volume or volumes,  
58 suitably indexed.

59 (e) **APPEAL ON THE ORIGINAL RECORD WITHOUT**  
60 **AN APPENDIX.** The district court or BAP may, either by rule for  
61 all cases or classes of cases or by order in a particular case,  
62 dispense with the appendix and permit an appeal to proceed on the  
63 original record, with the submission of any relevant parts of the  
64 record that the district court or BAP orders the parties to file.

## COMMITTEE NOTE

This rule is derived from former Rule 8009 and F.R.App.P. 30 and 31. Like former Rule 8009, it addresses the timing of serving and filing briefs and appendices, as well as the content and format of appendices. Rule 8011 governs the methods of filing and serving briefs and appendices.

The rule retains the bankruptcy practice of permitting the appellee to file its own appendix, rather than requiring the appellant to include in its appendix matters designated by the appellee. Rule 8016 governs the timing of serving and filing briefs when a cross-appeal is taken. This rule's provisions about appendices apply to all appeals, including cross-appeals.

Subdivision (a) retains former Rule 8009's provision that allows the district court or BAP to dispense with briefing or to provide different time periods than this rule specifies. It increases some of the time periods for filing briefs from the periods prescribed by the former rule, while still retaining shorter time periods than some provided by F.R.App.P. 31(a). The time for filing the appellant's brief is increased from 14 to 30 days after the docketing of the notice of the transmission of the record or notice of the availability of the record. That triggering event is equivalent to docketing the appeal under former Rule 8007. Appellate Rule 31(a)(1), by contrast, provides the appellant 40 days after the record is filed to file its brief. The shorter time period for bankruptcy appeals reflects the frequent need for greater expedition in the resolution of bankruptcy appeals, while still providing the appellant more time to prepare its brief than the former rule provided.

Subdivision (a)(2) similarly expands the time period for filing the appellee's brief from 14 to 30 days after the service of the appellant's brief. This period is the same as F.R. App. 31(a)(1) provides.

Subdivision (a)(3) retains the 14-day time period for filing a reply brief that the former rule prescribed, but it qualifies that period to ensure that the final brief is filed at least 7 days before oral argument.

If a district court or BAP has a mediation procedure for bankruptcy appeals, that procedure could affect when briefs must be filed. *See* Rule 8027.

Subdivision (a)(4) is new. Based on F.R.App.P. 31(c), it provides for actions that may be taken—dismissal of the appeal or denial of participation in oral argument—if the appellant or appellee fails to file its brief.

Subdivisions (b) and (c) govern the content and format of the appendix to a brief. Subdivision (b) is similar to former Rule 8009(b), and subdivision (c) is derived from F.R.App.P. 30(d).

Subdivision (d), which addresses the inclusion of exhibits in the appendix, is derived from F.R.App.P. 30(e).

**Rule 8019. Oral Argument**

1           (a) PARTY’S STATEMENT. Any party may file, or a  
2           district court or BAP may require, a statement explaining why oral  
3           argument should, or need not, be permitted.

4           (b) PRESUMPTION OF ORAL ARGUMENT AND  
5           EXCEPTIONS. Oral argument must be allowed in every case  
6           unless the district judge—or all the BAP judges assigned to hear  
7           the appeal—examine the briefs and record and determine that oral  
8           argument is unnecessary because

9                           (1) the appeal is frivolous;

10                          (2) the dispositive issue or issues have been  
11                          authoritatively decided; or

12                          (3) the facts and legal arguments are adequately  
13                          presented in the briefs and record, and the decisional  
14                          process would not be significantly aided by oral argument.

15           (c) NOTICE OF ARGUMENT; POSTPONEMENT. The  
16           district court or BAP must advise all parties of the date, time, and  
17           place for oral argument, and the time allowed for each side. A  
18           motion to postpone the argument or to allow longer argument must  
19           be filed reasonably in advance of the hearing date.

20           (d) ORDER AND CONTENTS OF ARGUMENT. The  
21           appellant opens and concludes the argument. Counsel must not

22 read at length from briefs, the record, or authorities.

23 (e) CROSS-APPEALS AND SEPARATE APPEALS. If  
24 there is a cross-appeal, Rule 8016(b) determines which party is the  
25 appellant and which is the appellee for the purposes of oral  
26 argument. Unless the district court or BAP directs otherwise, a  
27 cross-appeal or separate appeal must be argued when the initial  
28 appeal is argued. Separate parties should avoid duplicative  
29 argument.

30 (f) NONAPPEARANCE OF A PARTY. If the appellee  
31 fails to appear for argument, the district court or BAP may hear the  
32 appellant's argument. If the appellant fails to appear for argument,  
33 the district court or BAP may hear the appellee's argument. If  
34 neither party appears, the case will be decided on the briefs unless  
35 the district court or BAP orders otherwise.

36 (g) SUBMISSION ON BRIEFS. The parties may agree to  
37 submit a case for decision on the briefs, but the district court or  
38 BAP may direct that the case be argued.

39 (h) USE OF PHYSICAL EXHIBITS AT ARGUMENT;  
40 REMOVAL. Counsel intending to use physical exhibits other than  
41 documents at the argument must arrange to place them in the  
42 courtroom on the day of the argument before the court convenes.  
43 After the argument, counsel must remove the exhibits from the

44 courtroom unless the district court or BAP directs otherwise. The  
45 clerk may destroy or dispose of the exhibits if counsel does not  
46 reclaim them within a reasonable time after the clerk gives notice  
47 to remove them.

### COMMITTEE NOTE

This rule generally retains the provisions of former Rule 8012 and adds much of the additional detail of F.R.App.P. 34. By incorporating the more detailed provisions of the appellate rule, Rule 8019 promotes national uniformity regarding oral argument in bankruptcy appeals.

Subdivision (a), like F.R.App.P. 34(a)(1), now allows a party to submit a statement explaining why oral argument is or is not needed. It also authorizes a court to require this statement. Former Rule 8012 only authorized statements explaining why oral argument should be allowed.

Subdivision (b) retains the reasons set forth in former Rule 8012 for the district court or BAP to conclude that oral argument is not needed.

The remainder of this rule adopts the provisions of F.R.App.P. 34(b)-(g), with one exception. Rather than requiring the district court or BAP to hear appellant's argument if the appellee does not appear, subdivision (e) authorizes the district court or BAP to go forward with the argument in the appellee's absence. Should the court decide, however, to postpone the oral argument in that situation, it would be authorized to do so.



**Rule 8020. Frivolous Appeal and Other Misconduct**

1           (a) FRIVOLOUS APPEAL—DAMAGES AND COSTS.  
2           If the district court or BAP determines that an appeal is frivolous,  
3           it may, after a separately filed motion or notice from the court and  
4           reasonable opportunity to respond, award just damages and single  
5           or double costs to the appellee.

6           (b) OTHER MISCONDUCT. The district court or BAP  
7           may discipline or sanction an attorney or party appearing before it  
8           for other misconduct, including failure to comply with any court  
9           order. First, however, the court must afford the attorney or party  
10          reasonable notice, an opportunity to show cause to the contrary,  
11          and, if requested, a hearing.

**COMMITTEE NOTE**

This rule is derived from former Rule 8020 and F.R.App.P. 38 and 46(c). Subdivision (a) permits an award of damages and costs to an appellee for a frivolous appeal. Subdivision (b) permits the district court or BAP to impose on parties as well as their counsel sanctions for misconduct other than taking a frivolous appeal. Failure to comply with a court order, for which sanctions may be imposed, may include a failure to comply with a local court rule.

**Rule 8021. Costs**

1 (a) AGAINST WHOM ASSESSED. The following rules  
2 apply unless the law provides or the district court or BAP orders  
3 otherwise:

4 (1) if an appeal is dismissed, costs are taxed against  
5 the appellant, unless the parties agree otherwise;

6 (2) if a judgment, order, or decree is affirmed, costs  
7 are taxed against the appellant;

8 (3) if a judgment, order, or decree is reversed, costs  
9 are taxed against the appellee;

10 (4) if a judgment, order, or decree is affirmed or  
11 reversed in part, modified, or vacated, costs are taxed only  
12 as the district court or BAP orders.

13 (b) COSTS FOR AND AGAINST THE UNITED  
14 STATES. Costs for or against the United States, its agency, or its  
15 officer may be assessed under subdivision (a) only if authorized  
16 by law.

17 (c) COSTS ON APPEAL TAXABLE IN THE  
18 BANKRUPTCY COURT. The following costs on appeal are  
19 taxable in the bankruptcy court for the benefit of the party entitled  
20 to costs under this rule:

21 (1) the production of any required copies of a brief,

- 22 appendix, exhibit, or the record;
- 23 (2) the preparation and transmission of the record;
- 24 (3) the reporter's transcript, if needed to determine
- 25 the appeal;
- 26 (4) premiums paid for a supersedeas bond or other
- 27 bonds to preserve rights pending appeal; and
- 28 (5) the fee for filing the notice of appeal.
- 29 (d) BILL OF COSTS; OBJECTIONS. A party who wants
- 30 costs taxed must, within 14 days after entry of judgment on appeal,
- 31 file with the bankruptcy clerk, with proof of service, an itemized
- 32 and verified bill of costs. Objections must be filed within 14 days
- 33 after service of the bill of costs, unless the bankruptcy court
- 34 extends the time.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8014 and F.R.App.P. 39. It retains the former rule's authorization for taxing appellate costs against the losing party and its specification of the costs that may be taxed. The rule also incorporates some of the additional details regarding the taxing of costs contained in F.R.App.P. 39. Consistent with former Rule 8014, the bankruptcy clerk has the responsibility for taxing all costs. Subdivision (b), derived from F.R.App.P. 39(b), clarifies that additional authority is required for the taxation of costs by or against federal governmental parties.

**Rule 8022. Motion for Rehearing.**

1 (a) TIME TO FILE; CONTENTS; RESPONSE; ACTION  
2 BY THE DISTRICT COURT OR BAP IF GRANTED.

3 (1) *Time.* Unless the time is shortened or extended  
4 by order or local rule, any motion for rehearing by the  
5 district court or BAP must be filed within 14 days after  
6 entry of judgment on appeal.

7 (2) *Contents.* The motion must state with  
8 particularity each point of law or fact that the movant  
9 believes the district court or BAP has overlooked or  
10 misapprehended and must argue in support of the motion.  
11 Oral argument is not permitted.

12 (3) *Response.* Unless the district court or BAP  
13 requests, no response to a motion for rehearing is  
14 permitted. But ordinarily, rehearing will not be granted in  
15 the absence of such a request.

16 (4) *Action by the District Court or BAP.* If a  
17 motion for rehearing is granted, the district court or BAP  
18 may do any of the following:

19 (A) make a final disposition of the appeal  
20 without reargument;

21 (B) restore the case to the calendar for

22 reargument or resubmission; or  
23 (C) issue any other appropriate order.  
24 (b) FORM OF THE MOTION; LENGTH. The motion  
25 must comply in form with Rule 8013(f)(1) and (2). Copies must  
26 be served and filed as provided by Rule 8011. Unless the district  
27 court or BAP by local rule or order provides otherwise, a motion  
28 for rehearing must not exceed 15 pages.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8015 and F.R.App.P. 40. It deletes the provision of former Rule 8015 regarding the time for appeal to the court of appeals because the matter is addressed by F.R.App.P. 6(b)(2)(A).

### **Rule 8023. Voluntary Dismissal**

1           The clerk of the district court or BAP must dismiss an  
2           appeal if the parties file a signed dismissal agreement specifying  
3           how costs are to be paid and pay any fees that are due. An appeal  
4           may be dismissed on the appellant's motion on terms agreed to by  
5           the parties or fixed by the district court or BAP.

### **COMMITTEE NOTE**

This rule is derived from former Rule 8001(c) and F.R.App.P. 42. The provision of the former rule regarding dismissal of appeals in the bankruptcy court prior to docketing of the appeal has been deleted. Now that docketing occurs promptly after a notice of appeal is filed, *see* Rules 8003(d) and 8004(c), an appeal likely will not be voluntarily dismissed before docketing.

The rule retains the provision of the former rule that the district or BAP clerk must dismiss an appeal upon the parties' agreement. District courts and BAPs continue to have discretion to dismiss an appeal on an appellant's motion. Nothing in the rule prohibits a district court or BAP from dismissing an appeal for other reasons authorized by law, such as the failure to prosecute an appeal.

**Rule 8024. Clerk’s Duties on Disposition of the Appeal**

1           (a) JUDGMENT ON APPEAL. The district or BAP clerk  
2           must prepare, sign, and enter the judgment after receiving the  
3           court’s opinion or, if there is no opinion, as the court instructs.  
4           Noting the judgment on the docket constitutes entry of judgment.

5           (b) NOTICE OF A JUDGMENT. Immediately upon the  
6           entry of a judgment, the district or BAP clerk must:

7                       (1) transmit a notice of the entry to each party to  
8                       the appeal, to the United States trustee, and to the  
9                       bankruptcy clerk, together with a copy of any opinion; and

10                      (2) note the date of the transmission on the docket.

11           (c) RETURNING ORIGINAL DOCUMENTS. If any  
12           original documents were transmitted as the record on appeal, they  
13           must be returned to the bankruptcy clerk on disposition of the  
14           appeal.

**COMMITTEE NOTE**

This rule is derived from former Rule 8016, which was adapted from F.R.App.P. 36 and 45(c) and (d). The rule is reworded to reflect that the record often will not be physically transmitted to the district court or BAP and thus there will be no documents to return to the bankruptcy clerk. Other changes to the former rule are stylistic.

**Rule 8025. Stay of a District Court or BAP Judgment**

1 (a) AUTOMATIC STAY OF JUDGMENT ON APPEAL.

2 Unless the district court or BAP orders otherwise, its judgment is  
3 stayed for 14 days after entry.

4 (b) STAY PENDING APPEAL TO THE COURT OF  
5 APPEALS.

6 (1) *In General.* On a party's motion and notice to  
7 all other parties to the appeal, the district court or BAP may  
8 stay its judgment pending an appeal to the court of appeals.

9 (2) *Time Limit.* The stay must not exceed 30 days  
10 after the judgment is entered, except for cause shown.

11 (3) *Stay Continued.* If, before a stay expires, the  
12 party who obtained the stay appeals to the court of appeals,  
13 the stay continues until final disposition by the court of  
14 appeals.

15 (4) *Bond or Other Security.* A bond or other  
16 security may be required as a condition for granting or  
17 continuing a stay of the judgment. A bond or other security  
18 may be required if a trustee obtains a stay, but not if a stay  
19 is obtained by the United States or its officer or agency or  
20 at the direction of any department of the United States  
21 government.



22                   (c) AUTOMATIC STAY OF AN ORDER, JUDGMENT,  
23                   OR DECREE OF A BANKRUPTCY COURT. If the district court  
24                   or BAP enters a judgment affirming an order, judgment, or decree  
25                   of the bankruptcy court, a stay of the district court's or BAP's  
26                   judgment automatically stays the bankruptcy court's order,  
27                   judgment, or decree for the duration of the appellate stay.

28                   (d) POWER OF A COURT OF APPEALS NOT  
29                   LIMITED. This rule does not limit the power of a court of appeals  
30                   or any of its judges to do the following:

- 31                               (1) stay a judgment pending appeal;
- 32                               (2) stay proceedings while an appeal is pending;
- 33                               (3) suspend, modify, restore, vacate, or grant a stay  
34                               or an injunction while an appeal is pending; or
- 35                               (4) issue any order appropriate to preserve the  
36                               status quo or the effectiveness of any judgment to be  
37                               entered.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8017. Most of the changes to the former rule are stylistic. Subdivision (c) is new. It provides that if a district court or BAP affirms the bankruptcy court ruling and the appellate judgment is stayed, the bankruptcy court's order, judgment, or decree that is affirmed on appeal is automatically stayed to the same extent as the stay of the appellate judgment.

**Rule 8026. Rules by Circuit Councils and District Courts;  
Procedure When There is No Controlling Law**

1           (a) LOCAL RULES BY CIRCUIT COUNCILS AND  
2 DISTRICT COURTS.

3                   (1) *Adopting Local Rules.* A circuit council that  
4 has authorized a BAP under 28 U.S.C. § 158(b) may make  
5 and amend rules governing the practice and procedure on  
6 appeal from a judgment, order, or decree of a bankruptcy  
7 court to the BAP. A district court may make and amend  
8 rules governing the practice and procedure on appeal from  
9 a judgment, order, or decree of a bankruptcy court to the  
10 district court. Local rules must be consistent with, but not  
11 duplicative of, Acts of Congress and these Part VIII rules.  
12 Rule 83 F.R.Civ.P. governs the procedure for making and  
13 amending rules to govern appeals.

14                   (2) *Numbering.* Local rules must conform to any  
15 uniform numbering system prescribed by the Judicial  
16 Conference of the United States.

17                   (3) *Limitation on Imposing Requirements of Form.*  
18 A local rule imposing a requirement of form must not be  
19 enforced in a way that causes a party to lose any right  
20 because of a nonwillful failure to comply.

21           (b) PROCEDURE WHEN THERE IS NO

22 CONTROLLING LAW.

23 (1) *In General.* A district court or BAP may  
24 regulate practice in any manner consistent with federal law,  
25 applicable federal rules, the Official Forms, and local rules.

26 (2) *Limitation on Sanctions.* No sanction or other  
27 disadvantage may be imposed for noncompliance with any  
28 requirement not in federal law, applicable federal rules, the  
29 Official Forms, or local rules unless the alleged violator has  
30 been furnished in the particular case with actual notice of  
31 the requirement.

#### COMMITTEE NOTE

This rule is derived from former Rule 8018. The changes to the former rule are stylistic.

**Rule 8027. Notice of a Mediation Procedure**

1           If the district court or BAP has a mediation procedure  
2           applicable to bankruptcy appeals, the clerk must notify the parties  
3           promptly after docketing the appeal of:  
4           (a) the requirements of the mediation procedure; and  
5           (b) any effect the mediation procedure has on the time to  
6           file briefs.

**COMMITTEE NOTE**

This rule is new. It requires the district or BAP clerk to advise the parties promptly after an appeal is docketed of any court mediation procedure that is applicable to bankruptcy appeals. The notice must state what the mediation requirements are and how the procedure affects the time for filing briefs.

### **Rule 8028. Suspension of Rules in Part VIII**

1           In the interest of expediting decision or for other cause in a  
2           particular case, the district court or BAP, or where appropriate the  
3           court of appeals, may suspend the requirements or provisions of  
4           the rules in Part VIII, except Rules 8001, 8002, 8003, 8004, 8005,  
5           8006, 8007, 8012, 8020, 8024, 8025, 8026, and 8028.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8019 and F.R.App.P. 2. To promote uniformity of practice and compliance with statutory authority, the rule includes a more extensive list of requirements that may not be suspended than either the former rule or the Federal Rules of Appellate Procedure provide. Rules governing the following matters may not be suspended:

- scope of the rules; definition of “BAP”; method of transmission;
- time for filing a notice of appeal;
- taking an appeal as of right;
- taking an appeal by leave;
- election to have an appeal heard by a district court instead of a BAP;
- certification of direct appeal to a court of appeals;
- stay pending appeal;
- corporate disclosure statement;
- sanctions for frivolous appeals and other misconduct;
- clerk’s duties on disposition of an appeal;
- stay of a district court’s or BAP’s judgment;
- local rules; and
- suspension of the Part VIII rules.

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# APPENDIX B-3

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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 3A

## Application for Individuals to Pay the Filing Fee in Installments

12/13

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information.

**Part 1: Specify Your Proposed Payment Timetable**

1. Which chapter of the Bankruptcy Code are you choosing to file under?

- Chapter 7 ..... Fee: **\$306**
- Chapter 11 ..... Fee: **\$1,046**
- Chapter 12 ..... Fee: **\$246**
- Chapter 13 ..... Fee: **\$281**

2. You may apply to pay the filing fee in up to four installments. Fill in the amounts you propose to pay and the dates you plan to pay them. Be sure all dates are business days. Then add the payments you propose to pay.

You must propose to pay the entire fee no later than 120 days after you first file for bankruptcy. If necessary, you may ask the court to extend the deadline to 180 days after you file. In that case, you must explain why you need the extension. If the court approves your application, the court will set your final payment timetable.

You propose to pay...

\$ _____	<input type="checkbox"/> With the filing of the petition	_____
	<input type="checkbox"/> On or before this date.....	MM / DD / YYYY
\$ _____	On or before this date.....	_____
		MM / DD / YYYY
\$ _____	On or before this date.....	_____
		MM / DD / YYYY
+ \$ _____	On or before this date.....	_____
		MM / DD / YYYY

**Total**

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

◀ Your total must equal the entire fee for the chapter you checked in line 1.

**Part 2: Sign Here**

**By signing here, you state that you are unable to pay the full filing fee at once, that you want to pay the fee in installments, and that you understand that:**

- You must pay your entire filing fee before you make any more payments or transfer any more property to an attorney, bankruptcy petition preparer, or anyone else in connection with your bankruptcy case.
- You must pay the entire fee no later than 120 days after you first file for bankruptcy, unless the court extends your deadline to 180 days. Your debts will not be discharged until your entire fee is paid.
- If you do not make any payment when it is due, your bankruptcy case may be dismissed, and your rights in other bankruptcy proceedings may be affected.

\_\_\_\_\_  
Signature of Debtor 1

\_\_\_\_\_  
Signature of Debtor 2

\_\_\_\_\_  
Your attorney's name and signature, if you used one

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

**Fill in this information to identify the 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): \_\_\_\_\_

Chapter 7  
 Chapter 11  
 Chapter 12  
 Chapter 13

## Order Approving Payment of Filing Fee in Installments

After considering the *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 3A), the court orders that:

- The debtor(s) may pay the filing fee in installments on the terms proposed in the application.
- The debtor(s) must pay the filing fee according to the following terms:

You must pay...	On or before this date...
\$ _____	_____ / _____ / _____ Month / day / year
\$ _____	_____ / _____ / _____ Month / day / year
\$ _____	_____ / _____ / _____ Month / day / year
+ \$ _____	_____ / _____ / _____ Month / day / year
<b>Total</b>	<input type="text"/>

Until the filing fee is paid in full, the debtor(s) must not make any additional payment or transfer any additional property to an attorney or to anyone else for services in connection with this case.

\_\_\_\_\_ **By the court:** \_\_\_\_\_  
Month / day / year United States Bankruptcy Judge

## Official Form 3A

# Instructions for the Application for Individuals to Pay the Filing Fee in Installments

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United States Bankruptcy Court

12/01/13

### How to Fill Out the Application

If you cannot afford to pay the full filing fee when you first file for bankruptcy, you may pay the fee in installments. However, in most cases, you must pay the entire fee within 120 days after you file, and the court must approve your payment timetable. Your debts will not be discharged until you pay your entire fee.

Do not file this form if you can afford to pay your full fee when you file.

If you are filing under chapter 7 and cannot afford to pay the full filing fee at all, you may be qualified to ask the court to waive your filing fee. See *Application to Have Your Chapter 7 Filing Fee Waived* (Official Form 3B).

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out the *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer* (Official Form 19); include a copy of it in this package.

### Things to remember when filling out this form

- Be as complete and accurate as possible.
- 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).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

### **COMMITTEE NOTE**

This form, which applies only in cases of individual debtors, has been revised as part of the Forms Modernization Project, making the form easier to read and, as a result, likely to generate more complete and accurate responses. Also, the declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 19. That form must be completed and signed by the BPP, and filed with each document for filing prepared by a BPP.

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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 3B**

**Application to Have the Chapter 7 Filing Fee Waived**

12/13

**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: Tell the Court About Your Family and Your Family's Income**

**1. What is the size of your family?**

Your family includes you, your spouse, and any dependents listed on *Schedule J: Current Expenditures of Individual Debtor(s)* (Official Form 6J).

\_\_\_\_\_ Number of people

Check all that apply.

- You  
 Your spouse  
 Your dependents \_\_\_\_\_

How many dependents?

**2. Fill in your family's average monthly income.**

Include your spouse's income if your spouse is living with you, even if your spouse is not filing.

Do not include your spouse's income if you are separated and your spouse is not filing with you.

Do not include non-cash governmental assistance such as food stamps or housing subsidies.

Person in your family	That person's average monthly net income (take-home pay)
You	\$ _____
Your spouse	+ \$ _____
Total	\$ _____

Add your income and your spouse's income or copy line 10 of *Schedule I: Your Income*, if you have already filled it out.

**Your family's average monthly net income**

**3. Do you receive any non-cash governmental assistance not included in your answer on line 2?**

- No  
 Yes. Explain. ....

Type of assistance	Monthly dollar value
_____	\$ _____

**4. Do you expect your family's average monthly net income to increase or decrease by more than 10% during the next 6 months?**

- No  
 Yes. Explain. ....

\_\_\_\_\_

**5. Tell the court why you are unable to pay the filing fee in installments within 120 days.**

\_\_\_\_\_

**Part 2: Tell the Court About Your Monthly Expenses**

**6. Estimate your average monthly expenses.** \$ \_\_\_\_\_ You may use *Schedule J: Your Expenses* to determine your estimation. If you have already filled out *Schedule J*, copy line 22.

**7. Do these expenses cover anyone who is not included in your family as reported in line 1?**  
 No  
 Yes. Identify who.... \_\_\_\_\_

**8. Does anyone other than you regularly pay any of these expenses?**  
 No  
 Yes. Identify who..... \_\_\_\_\_  
 How much does this person regularly pay? \$ \_\_\_\_\_ monthly  
 List any contributions to expenses you have or will list in line 11 of *Schedule I: Your Income*.

**9. Do you expect your average monthly expenses to increase or decrease by more than 10% during the next 6 months?**  
 No  
 Yes. Explain ..... \_\_\_\_\_

**Part 3: Tell the Court About Your Property**

If you have already filled out *Schedule A: Real Property (Official Form 6A)* and *Schedule B: Personal Property (Official Form 6B)*, attach copies to this application and go to Part 4.

**10. How much cash do you have?**  
*Examples:* Money you have in your wallet, in your home, and on hand when you file this application  
 Cash: \$ \_\_\_\_\_

**11. Bank accounts and other deposits of money?**  
*Examples:* Checking, savings, money market, or other financial accounts; certificates of deposit; shares in banks, credit unions, brokerage houses, and other similar institutions. If you have more than one account with the same institution, list each. Do not include 401(k) and IRA accounts.  
 Institution name: \_\_\_\_\_ Amount: \_\_\_\_\_  
 Checking account: \_\_\_\_\_ \$ \_\_\_\_\_  
 Savings account: \_\_\_\_\_ \$ \_\_\_\_\_  
 Other financial accounts: \_\_\_\_\_ \$ \_\_\_\_\_  
 Other financial accounts: \_\_\_\_\_ \$ \_\_\_\_\_

**12. Your home?** (if you own it outright or are purchasing it)  
*Examples:* House, condominium, manufactured home, or mobile home  
 Number \_\_\_\_\_ Street \_\_\_\_\_ Current value: \$ \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_ Amount you owe on mortgage and liens: \$ \_\_\_\_\_

**13. Other real estate?**  
 Number \_\_\_\_\_ Street \_\_\_\_\_ Current value: \$ \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_ Amount you owe on mortgage and liens: \$ \_\_\_\_\_

**14. The vehicles you own?**  
*Examples:* Cars, vans, trucks, sports utility vehicles, motorcycles, tractors, boats  
 Make: \_\_\_\_\_ Current value: \$ \_\_\_\_\_  
 Model: \_\_\_\_\_ Amount you owe on liens: \$ \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Mileage: \_\_\_\_\_  
 Make: \_\_\_\_\_ Current value: \$ \_\_\_\_\_  
 Model: \_\_\_\_\_ Amount you owe on liens: \$ \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Mileage: \_\_\_\_\_



<b>15. Other assets?</b> Do not include household items and clothing.	<b>Describe the other assets:</b>  	Current value: \$ _____ Amount you owe on liens: \$ _____
--	---	--

<b>16. Money or property due you?</b> <i>Examples:</i> Tax refunds, past due or lump sum alimony, spousal support, child support, maintenance, divorce or property settlements, Social Security benefits, Workers' compensation, personal injury recovery	<b>Who owes you the money or property?</b> _____ _____	<b>How much is owed?</b> \$ _____ \$ _____	Do you believe you will likely receive payment in the next 3 or 4 months? <input type="checkbox"/> No <input type="checkbox"/> Yes. Explain: <div style="border: 1px solid black; height: 40px; width: 100%;"></div>
--	--	--	---

**Part 4: Answer These Additional Questions**

<b>17. Have you paid anyone for services for this case, including filling out this application, the bankruptcy filing package, or the schedules?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. <b>Whom did you pay?</b> <input type="checkbox"/> An attorney <input type="checkbox"/> A bankruptcy petition preparer, paralegal, or typing service <input type="checkbox"/> Someone else _____	<b>How much did you pay?</b> \$ _____
--	---	--

<b>18. Have you promised to pay or do you expect to pay someone for services for your bankruptcy case?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. <b>Whom do you expect to pay?</b> <input type="checkbox"/> An attorney <input type="checkbox"/> A bankruptcy petition preparer, paralegal, or typing service <input type="checkbox"/> Someone else _____	<b>How much do you expect to pay?</b> \$ _____
--	--	---

<b>19. Has anyone paid someone on your behalf for services for this case?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. <b>Who was paid on your behalf?</b> <input type="checkbox"/> An attorney <input type="checkbox"/> A bankruptcy petition preparer, paralegal, or typing service <input type="checkbox"/> Someone else _____	<b>Who paid?</b> <input type="checkbox"/> Parent <input type="checkbox"/> Brother or sister <input type="checkbox"/> Friend <input type="checkbox"/> Pastor or clergy <input type="checkbox"/> Someone else _____	<b>How much did someone else pay?</b> \$ _____
---	--	--	---

<b>20. Have you, your spouse, or both of you filed for bankruptcy within the last 8 years?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. District _____ When _____ MM/DD/YYYY Case number _____  District _____ When _____ MM/DD/YYYY Case number _____  District _____ When _____ MM/DD/YYYY Case number _____
--	---

**Part 5: Sign Here**

**By signing here under penalty of perjury, I declare that I cannot afford to pay the filing fee either in full or in installments. I also declare that the information I provided in this application is true and correct.**

<b>x</b> _____ Signature of Debtor 1	<b>x</b> _____ Signature of Debtor 2
Date _____ MM / DD / YYYY	Date _____ MM / DD / YYYY

**Fill in this information to identify the 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)

## Order on the Application to Have the Chapter 7 Filing Fee Waived

After considering the debtor's *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 3B), the court orders that the application is:

**Granted.** However, the court may order the debtor to pay the fee in the future if developments in administering the bankruptcy case show that the waiver was unwarranted.

**Denied.** The debtor must pay the \$306 filing fee according to the following terms:

You must pay...	On or before this date...
\$ _____.	_____ Month / day / year
\$ _____.	_____ Month / day / year
\$ _____.	_____ Month / day / year
+ \$ _____.	_____ Month / day / year
<b>Total</b>	<b>\$ 306.00</b>

If the debtor would like to propose a different payment timetable, the debtor must file a motion promptly with a payment proposal. The debtor may use *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 3A) for this purpose. The court will consider it.

The debtor must pay the entire filing fee before making any more payments or transferring any more property to an attorney, bankruptcy petition preparer, or anyone else in connection with the bankruptcy case. The debtor must also pay the entire filing fee to receive a discharge. If the debtor does not make any payment when it is due, the bankruptcy case may be dismissed and the debtor's rights in future bankruptcy cases may be affected.

**Scheduled for hearing.**

A hearing to consider the debtor's application will be held

on \_\_\_\_\_ at \_\_\_\_\_:\_\_\_\_\_ AM/PM at \_\_\_\_\_.  
Month / day / year Address of courthouse

If the debtor does not appear at this hearing, the court may deny the application.

\_\_\_\_\_  
Month / day / year

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge

## Official Form 3B

# Instructions for the Application to Have the Chapter 7 Filing Fee Waived

United States Bankruptcy Court

12/01/2013

### How to Fill Out the Application

The fee for filing a bankruptcy case under Chapter 7 is \$306. If you cannot afford to pay the entire fee now in full or in installments within 120 days, use this form. If you can afford to pay your filing fee in installments, see *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 3A).

If you file this form, you are asking the court to waive your fee. After reviewing your application, the court may waive your fee, set a hearing for further investigation, or require you to pay the fee in installments or in full.

#### **For your fee to be waived, all of these statements must be true:**

- You are filing for bankruptcy under Chapter 7.
- You are an individual.
- The total combined monthly income for your family is less than 150% of the official poverty guideline last published by the U.S. Department of Health and Human Services (DHHS). (For more information about the guidelines, go to <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/PovertyGuidelines.aspx>.)
- You cannot afford to pay the fee in installments.

*Your family* includes you, your spouse, and any dependents listed on *Schedule J*. Your family may be different from your *household*, referenced on *Schedules I* and *J*. Your household may include your unmarried partner and others who live with you and with whom you share income and expenses.

If a bankruptcy petition preparer helped you complete this

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

form, make sure that person fills out *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer* (Official Form 19); include a copy of it in this package.

If you have already completed the following forms, the information on them may help you when you fill out this application:

- *Schedule A: Real Property* (Official Form 6A)
- *Schedule I: Your Income* (Official Form 6I)
- *Schedule J: Your Expenses* (Official Form J)

#### **Understand the terms used in this form**

The *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 3B) uses *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, this form uses *you* to ask for information from both debtors. For example, if the 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.

#### **Things to remember when filling out this form**

- Be as complete and accurate as possible.
- 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).
- If two married people are filing together, both are equally responsible for supplying correct information.

### **COMMITTEE NOTE**

This form, which applies only in cases of individual debtors, has been revised as part of the Forms Modernization Project, making the form easier to read and, as a result, likely to generate more complete and accurate responses. Additionally, in calculating the income that determines the debtor's initial eligibility for a fee waiver, line 2 of the form now directs the debtor to exclude non-cash governmental assistance, such as food stamps and housing subsidies. However, because non-cash governmental assistance may be relevant in evaluating the additional requirement that the debtor be unable to pay the filing fee, the nature and amount of any such assistance is to be reported separately on line 3. Also, the declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 19. That form must be completed and signed by the BPP, and filed with each document for filing prepared by a BPP.

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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 6I**  
**Schedule I: Your Income**

12/13

**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: Describe Employment**

**1. Fill in your employment information.**

If you have more than one job, attach a separate page with information about additional employers.

Include employment information about a non-filing spouse unless you are separated.

Include part-time, seasonal, or self-employed work.

Occupation should include student or homemaker, if it applies.

	Debtor 1	Debtor 2 or non-filing spouse
<b>Employment status</b>	Employed Not employed	Employed Not employed
<b>Occupation</b>	_____	_____
<b>Employer's name</b>	_____	_____
<b>Employer's address</b>	Number Street _____ _____ City State ZIP Code	Number Street _____ _____ City State ZIP Code
<b>How long employed there?</b>	_____	_____

**Part 2: Give Details About Monthly Income**

**Estimate monthly income as of the date you file this form.** If you have nothing to report for any line, write \$0 in the space. Include your non-filing spouse unless you are separated.

If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

	For Debtor 1	For Debtor 2 or non-filing spouse
2. <b>List monthly gross wages, salary, and commissions</b> (before all payroll deductions). If not paid monthly, calculate what the monthly wage would be.	2. \$ _____	\$ _____
3. <b>Estimate and list monthly overtime pay, if any.</b>	3. + \$ _____	+ \$ _____
4. <b>Calculate gross income.</b> Add line 2 + line 3.	4. \$ _____	\$ _____

	For Debtor 1	For Debtor 2 or non-filing spouse
Copy line 4 here..... → 4.	\$ _____	\$ _____
<b>5. List all payroll deductions:</b>		
5a. Payroll taxes and social security payments	5a. \$ _____	\$ _____
5b. Contributions for retirement plans	5b. \$ _____	\$ _____
5c. Required repayments of retirement fund loans	5c. \$ _____	\$ _____
5d. Insurance	5d. \$ _____	\$ _____
5e. Union dues	5e. \$ _____	\$ _____
5f. Other deductions. Specify: _____	5f. \$ _____	\$ _____
5g. Other deductions. Specify: _____	5g. \$ _____	\$ _____
5h. Other deductions. Specify: _____	5h. + \$ _____	+ \$ _____
6. Add the payroll deductions. Add lines 5a + 5b + 5c + 5d + 5e +5f + 5g +5h.	6. \$ _____	\$ _____
7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	7. \$ _____	\$ _____
<b>8. List all other income regularly received:</b>		
8a. Net income from rental property and from operating a business, profession, or farm Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.	8a. \$ _____	\$ _____
8b. Interest and dividends	8b. \$ _____	\$ _____
8c. Family support payments that you, a non-filing spouse, or a dependent regularly receive Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.	8c. \$ _____	\$ _____
8d. Unemployment compensation	8d. \$ _____	\$ _____
8e. Social Security	8e. \$ _____	\$ _____
8f. Other government assistance. Specify: _____	8f. \$ _____	\$ _____
8g. Pension or retirement income	8g. \$ _____	\$ _____
8h. Other monthly income. Specify: _____	8h. + \$ _____	+ \$ _____
9. Add all other income. Add lines 8a + 8b + 8c + 8d + 8e + 8f +8g + 8h.	9. \$ _____	\$ _____
10. Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.	10. \$ _____ +	\$ _____ = \$ _____
11. List all contributions to the expenses that you list in <i>Schedule J</i> that anyone else makes. Include contributions from an unmarried partner, members of your household, your dependents, your roommates, and other friends or relatives. Do not include any amounts already included in lines 2-10 or amounts that are not available to pay expenses listed in <i>Schedule J</i> . Specify: _____		11. + \$ _____
12. Add the amount in last column of line 10 to the amount in line 11. The result is the combined monthly income. Write that amount on the <i>Summary of Schedules</i> and the <i>Statistical Summary of Certain Liabilities and Related Data</i> , if it applies.		12. \$ _____ <b>Combined monthly income</b>
13. Do you expect an increase or decrease within the year after you file this form? <input type="checkbox"/> No. <input type="checkbox"/> Yes. Explain: _____		



## Official Form 6I

# Instructions for Schedule I: Your Income

United States Bankruptcy Court

12/01/13

### How to fill out Schedule I

In *Schedule I: Your Income* (Official Form 6I), you will give the details about your employment and monthly income as of the date you file this form. If you are married and your spouse is living with you, include information about your spouse even if your spouse is not filing with you. If you are separated and your spouse is not filing with you, do not include information about your spouse.

### How to report employment and income

If you have nothing to report for a line, write \$0.

In Part 1, line 1, fill in employment information for you and, if appropriate, for a non-filing spouse. If either person has more than one employer, attach a separate page with information about the additional employment.

In Part 2, give details about the monthly income you currently expect to receive. Show all totals as monthly payments, even if income is not received in monthly payments.

If your income is received in another time period, such as daily, weekly, quarterly, annually, or irregularly, calculate how much income would be by month, as described below.

If either you or a non-filing spouse has more than one employer, calculate the monthly amount for each employer separately, and then combine the income information for all employers for that person on lines 2-7.

One easy way to calculate how much income would be per month is to total the payments earned in a year, then divide by 12 to get a monthly figure. For example, if you are paid annually, you would simply divide your annual salary by 12 to get the monthly amount.

Below are other examples of how to calculate monthly amount.

---

#### Example for quarterly payments:

If you are paid \$15,000 every quarter, figure your monthly income in this way:

$$\begin{array}{r} \$15,000 \text{ income every quarter} \\ \times \quad 4 \text{ pay periods in the year} \\ \hline \$60,000 \text{ total income for the year} \end{array}$$

$$\frac{\$60,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,000 \text{ monthly income}$$

---

#### Example for bi-weekly payments:

If you are paid \$2,500 every other week, figure your monthly income in this way:

$$\begin{array}{r} \$2,500 \text{ income every other week} \\ \times \quad 26 \text{ number of pay periods in the year} \\ \hline \$65,000 \text{ total income for the year} \end{array}$$

$$\frac{\$65,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,417 \text{ monthly income}$$

---

#### Example for weekly payment:

If you are paid \$1,000 every week, figure your monthly income in this way:

$$\begin{array}{r} \$1,000 \text{ income every week} \\ \times \quad 52 \text{ number of pay periods in the year} \\ \hline \$52,000 \text{ total income for the year} \end{array}$$

$$\frac{\$52,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$4,333 \text{ monthly income}$$

---

**Example for irregular payments:**

If you are paid \$4,000 8 times a year, figure your monthly income in this way:

$$\begin{array}{r} \$4,000 \text{ income a payment} \\ \times \quad 8 \text{ payments a year} \\ \hline \$32,000 \text{ income for the year} \\ \\ \frac{\$32,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$2,667 \text{ monthly income} \end{array}$$

---

**Example for daily payments:**

If you are paid \$75 a day and you work about 8 days a month, figure your monthly income in this way:

$$\begin{array}{r} \$75 \text{ income a day} \\ \times \quad 96 \text{ days a year} \\ \hline \$7,200 \text{ total income for the year} \\ \\ \frac{\$7,200 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$600 \text{ monthly income} \end{array}$$

or this way:

$$\begin{array}{r} \$75 \text{ income a day} \\ \times \quad 8 \text{ payments a month} \\ \hline \$600 \text{ income for the month} \end{array}$$

In Part 2, line 11, fill in amounts that other people provide to pay the expenses you list on *Schedule J: Your Expenses*. For example, if you and a person to whom you are not married deposit the income from both of your jobs into a single bank account and pay all household expenses and you list all your joint household expenses on *Schedule J*, you must list the amounts that person contributes monthly to pay the household expenses on line 11. If you have a roommate and you divide the rent and utilities, do not list the amounts your roommate pays on line 11 if you have listed only your share of those expenses on *Schedule J*. However, if you have listed

the cost of the rent and utilities for your entire house or apartment on *Schedule J*, you must list your roommate's contribution to those expenses on *Schedule I*, line 14. Do not list line 11 contributions that you already disclosed on line 5.

Note that the income you report on *Schedule I* may be different from the income you report on other bankruptcy forms. For example, the *Chapter 7 Statement of Your Current Monthly Income* (Official Form 22A-1), *Chapter 11 Statement of Your Current Monthly Income* (Official Form 22B), and the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 22C-1) all use a different definition of income and apply that definition to a different period of time. *Schedule I* asks about the income that you are now receiving, while the other forms ask about income you received in the applicable time period before filing. So the amount of income reported in any of those forms may be different from the amount reported here.

**Understand the terms used in this form**

This form uses *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, this form uses *you* to ask for information from both debtors. 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.

**Things to remember when filling out this form**

- Be as complete and accurate as possible.
- 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).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

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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 6J

## Schedule J: Your Expenses

12/13

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: Describe Your Household**

1. **Do you have dependents who live with you?**

- No  
 Yes. Fill out this information.

Do not list Debtor 1 and Debtor 2.

If you are filing jointly and live in separate households, list dependents who live in either household.

Each dependent who lives in the household	That person's relationship to Debtor 1 or Debtor 2	That person's age
Person 1	_____	_____
Person 2	_____	_____
Person 3	_____	_____
Person 4	_____	_____
Person 5	_____	_____

2. **Do you have dependents who do not live with you?**

- No  
 Yes. Fill out this information:

Do not list anyone listed in line 1.

Each dependent who does not live in the household	That person's relationship to Debtor 1 or Debtor 2	That person's age
Person 1	_____	_____
Person 2	_____	_____

3. **Does anyone else live in your household?**

- No  
 Yes. Fill out this information

Do not list Debtor 1, Debtor 2, and any dependents listed on lines 1 and 2.

If you are filing jointly and live in separate households, list everyone else who lives in either household.

Each other person who lives in the household	That person's relationship to Debtor 1 or Debtor 2
Person 1	_____
Person 2	_____
Person 3	_____

**Part 2: Estimate Your Ongoing Monthly Expenses**

	Column A For all individuals	Column B For Chapter 13 ONLY
	Your expenses as of the date you file for bankruptcy	What your expenses will be if your current plan is confirmed
<b>4. The rental or home ownership expenses for your residence.</b> Include first mortgage payments and any rent for the ground or lot.	4. \$ _____	\$ _____
<b>If not included in line 4:</b>		
4a. Real estate taxes	4a. \$ _____	\$ _____
4b. Property, homeowner's, or renter's insurance	4b. \$ _____	\$ _____
4c. Home maintenance, repair, and upkeep expenses	4c. \$ _____	\$ _____
4d. Homeowner's association or condominium dues	4d. \$ _____	\$ _____
<b>5. Additional mortgage payments for your residence,</b> such as home equity loans	5. \$ _____	\$ _____
<b>6. Utilities:</b>		
6a. Electricity, heat, natural gas	6a. \$ _____	\$ _____
6b. Water, sewer, garbage collection	6b. \$ _____	\$ _____
6c. Telephone, cell phone, Internet, satellite, and cable services	6c. \$ _____	\$ _____
6d. Other. Specify: _____	6d. \$ _____	\$ _____
<b>7. Food and housekeeping supplies</b>	7. \$ _____	\$ _____
<b>8. Childcare and children's education costs</b>	8. \$ _____	\$ _____
<b>9. Clothing, laundry, and dry cleaning</b>	9. \$ _____	\$ _____
<b>10. Personal care products and services</b>	10. \$ _____	\$ _____
<b>11. Medical and dental expenses</b>	11. \$ _____	\$ _____
<b>12. Transportation.</b> Include gas, maintenance, bus or train fare. Do not include car payments.	12. \$ _____	\$ _____
<b>13. Entertainment, clubs, recreation, newspapers, magazine, and books</b>	13. \$ _____	\$ _____
<b>14. Charitable contributions and religious donations</b>	14. \$ _____	\$ _____
<b>15. Insurance.</b> Do not include insurance deducted from your pay or included in lines 4 or 20.		
15a. Life insurance	15a. \$ _____	\$ _____
15b. Health insurance	15b. \$ _____	\$ _____
15c. Vehicle insurance	15c. \$ _____	\$ _____
15d. Other insurance. Specify: _____	15d. \$ _____	\$ _____
<b>16. Taxes.</b> Do not include taxes deducted from your pay or included in lines 4 or 20. Specify: _____	16. \$ _____	\$ _____
<b>17. Installment or lease payments:</b>		
17a. Car payments for Vehicle 1	17a. \$ _____	\$ _____
17b. Car payments for Vehicle 2	17b. \$ _____	\$ _____
17c. Student loan payments	17c. \$ _____	\$ _____
17d. Other. Specify: _____	17d. \$ _____	\$ _____
17e. Other. Specify: _____	17e. \$ _____	\$ _____

		Column A For all individuals	Column B For Chapter 13 ONLY
		Your expenses as of the date you file for bankruptcy	What your expenses will be if your current plan is confirmed
18.	<b>Alimony, maintenance, and support that you pay to others</b>	18. \$ _____	\$ _____
19.	<b>Other payments you make to support others who do not live with you.</b> Specify: _____	19. \$ _____	\$ _____
20.	<b>Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income (Official Form 6I)</b>		
	20a. Mortgages on other property	20a. \$ _____	\$ _____
	20b. Real estate taxes	20b. \$ _____	\$ _____
	20c. Property, homeowner's, or renter's insurance	20c. \$ _____	\$ _____
	20d. Maintenance, repair, and upkeep expenses	20d. \$ _____	\$ _____
	20e. Homeowner's association or condominium dues	20e. \$ _____	\$ _____
21.	<b>Other.</b> Specify: _____	21. + \$ _____	+ \$ _____
22.	<b>Your monthly expenses.</b> Add lines 4 through 21. The result is your monthly expenses.	22. \$ _____	\$ _____
23.	<b>Calculate your monthly net income.</b>		
	23a. Copy line 12 (your combined monthly income) from Schedule I.	23a. \$ _____	\$ _____
	23b. Copy your monthly expenses from line 22 above.	23b. - \$ _____	- \$ _____
	23c. Subtract your monthly expenses from your monthly income. The result is your <i>monthly net income</i> .	23c. \$ _____	\$ _____
24.	<b>Do you expect an increase or decrease in your expenses within the year after you file this form?</b>  For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?  <input type="checkbox"/> No. <input type="checkbox"/> Yes.  Explain here:          		

## Official Form 6J

# Instructions for Schedule J: Your Expenses

United States Bankruptcy Court

12/01/13

### How to Fill Out Schedule J

Use Column A of *Schedule J: Your Expenses* (Official Form 6J) to estimate the monthly expenses, as of the date you file for bankruptcy, for you, your dependents, and the other people in your household whose income is included on *Schedule I: Your Income* (Official Form 6I).

If you are filing under chapter 13, you must also complete Column B. In Column B, itemize what your monthly expenses would be under the plan that you are submitting with this schedule or, if no plan is being submitted now, under the most recent plan you previously submitted.

Include your non-filing spouse's expenses unless you are separated. If one of you keeps a separate household, fill out separate *Schedule J* for Debtor 1 and Debtor 2 and write *Debtor 1* or *Debtor 2* at the top of page 1 of the form.

Do not include expenses that other members of your household pay directly from their income if you did not include that income on *Schedule I*. For example, if you have a roommate and you divide the rent and utilities and you have not listed your roommate's contribution to household expenses in line 11 of *Schedule I*, you would list only your share of these expenses on *Schedule J*.

Show all totals as monthly payments. If you have weekly, quarterly, or annual payments, calculate how much you would spend on those items every month.

Do not list as expenses any payments on credit card debts incurred before filing bankruptcy.

Do not include business expenses on this form. You have already accounted for those expenses as part of determining net business income on *Schedule I*.

On line 20, do not include expenses for your residence or for any rental or business property. You have already

listed expenses for your residence on lines 4 and 5 of this form. You listed the expenses for your rental and business property as part of the process of determining your net income from that property on *Schedule I* (line 8a).

If you have nothing to report for a line, write \$0.

### Understand the terms used in this form

This form uses *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, this form uses *you* to ask for information from both debtors. 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.

### Things to remember when filling out this form

- Be as complete and accurate as possible.
- 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).
- If two married people are filing together, both are equally responsible for supplying correct information.
- Do not list a minor child's full name. Instead, fill in only the child's initials and the full name and address of the child's parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m) and 9037.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**



## COMMITTEE NOTE

*Schedule I: Your Income* (Official Form 6I) and *Schedule J: Your Expenses* (Official Form 6J), which apply only in cases of individual debtors, have been revised as part of the Forms Modernization Project, making the forms easier to read and, as a result, likely to generate more complete and accurate responses.

Revised Schedules I and J seek to obtain a full picture of debtor's economic situation—to the extent that debtor receives income or has expenses. The revised forms are intended to avoid the situation that frequently happens with the current forms where debtor lives with and pools assets with other people and the household provides support to dependents who may not be related by blood or marriage to debtor.

The amendments seek to avoid the situation where the expenses listed on Schedule J are for the entire household, but the income listed on Schedule I is only for the debtor. Line 11 on revised Schedule I, now includes contributions made by someone else to the expenses on Schedule J and the debtor is instructed to include contributions from an unmarried partner, members of the debtor's household, dependents, roommates, and other friends or relatives.

As revised, Schedule J asks for expenses at two different points in time in chapter 13 cases—as of the date the debtor files bankruptcy (Column A) and as of the date a proposed 13 plan is confirmed (Column B).

In drafting the form it became apparent that at least some courts are using Schedules I and J in analyzing proposed chapter 13 plans and potential modification of those plans. Sometimes amended Schedules I and J are required when a debtor's financial circumstances change. To avoid a lack of clarity on the form regarding the date to be used in computing expenses, and in order to allow Schedule J to continue to serve the plan feasibility function, the revised form requests information on both time bases in chapter 13 cases.

New lines 1, 2, and 3 on revised Schedule J request information on dependents who live with the debtor, dependents who live separately, and other members of the household. In addition, new line 23 on the form includes a calculation of the debtor's monthly net income.

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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 one only as directed in lines 1, 2, 3, or 17:**

According to the calculations required by this Statement:

- 1. There is no presumption of abuse.
- 2. The presumption of abuse is determined by Form 22A-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 22A-1**

**Chapter 7 Statement of Your Current Monthly Income**

12/13

**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: Identify the Kind of Debts You Have**

1. **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." Make sure that your answer is consistent with the "Nature of Debts" box on page one of the *Voluntary Petition* (Official Form 1).
- No. On the top of this page, check box 1, *There is no presumption of abuse*.....Go to Part 5.
  - Yes.....Go to Part 2.

**Part 2: Determine Whether Military Service Provisions Apply to You**

**If you are filing this case jointly and any of the exclusions in Part 2 applies to only one of you, the other person should complete a separate Chapter 7 Statement of Your Current Monthly Income (Official Form 22A-1) if you believe that this is required by 11 U.S.C. § 707(b)(2)(C).**

2. **Are you a disabled veteran** (as defined in 38 U.S.C. § 3741(1))?
- No. Go to line 3.
  - Yes. Did you incur debts mostly while you were on active duty or while you were performing a homeland defense activity?  
11 U.S.C. § 101(d)(1); 32 U.S.C. § 901(1)
    - No. Go to line 3.
    - Yes. On the top of this page, check box 1, *There is no presumption of abuse*.....Go to Part 5.

3. **Are you or have you been a Reservist or member of the National Guard?**

- No. Go to Part 3.
- Yes. Were you called to active duty or did you perform a homeland defense activity? 10 U.S.C. § 101(d)(1); 32 U.S.C. § 901(1)
  - No. Go to Part 3.
  - Yes. Check any one of the following categories that applies:
    - I was called to active duty after September 11, 2001, for at least 90 days and remain on active duty.
    - I was called to active duty after September 11, 2001, for at least 90 days and was released from active duty on \_\_\_\_\_, which is fewer than 540 days before I file this bankruptcy case.
    - I am performing a homeland defense activity for at least 90 days.
    - I performed a homeland defense activity for at least 90 days, ending on \_\_\_\_\_, which is fewer than 540 days before I file this bankruptcy case.

If you did not check any of these categories, go to Part 3.

If you checked one of the categories, go to the top of this page. Check box 3, *The Means Test does not apply now because of qualified military service but it could apply later*; then go to Part 5. You are not required to fill out the rest of this form during the exclusion period. The *exclusion period* means the time you are on active duty or are performing a homeland defense activity, and for 540 days afterward. 11 U.S.C. § 707(b)(2)(D)(ii). If your exclusion period ends before your case is closed, you may have to file an amended form later.

**Part 3: Calculate Your Current Monthly Income**

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

- Not married.** Fill out Column A, lines 5-14.
- Married and your spouse is filing with you.** Fill out both Columns A and B, lines 5-14.  
**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 5-14.
  - Living separately or are legally separated.** Fill out Column A, lines 5-14; 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 For you	Column B Debtor 2 or non-filing spouse
5. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).	\$ _____	\$ _____
6. <b>Alimony and maintenance payments</b>	\$ _____	\$ _____
7. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Also, include regular contributions from a spouse if Column B is not filled in. Do not include payments you listed on line 6.	\$ _____	\$ _____
8. <b>Net income from operating a business, profession, or farm</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from a business, profession, or farm	\$ _____ <b>Copy here →</b>	\$ _____
9. <b>Net income from rental and other real property</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from rental or other real property	\$ _____ <b>Copy here →</b>	\$ _____
10. <b>Interest, dividends, and royalties</b>	\$ _____	\$ _____
11. <b>Unemployment compensation</b>	\$ _____	\$ _____
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 .....	\$ _____	
12. <b>Pension or retirement income.</b> Do not include any amount received that was a benefit under the Social Security Act.	\$ _____	\$ _____
13. <b>Income from all other sources not listed above.</b> Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 13c.		
13a. _____	\$ _____	\$ _____
13b. _____	\$ _____	\$ _____
13c. Total amounts from separate pages, if any.	+ \$ _____	+ \$ _____
14. <b>Calculate your total current monthly income.</b> Add lines 5 through 13 for each column. Then add the total for Column A to the total for Column B.	\$ _____	\$ _____
	+	= \$ _____

**Total current monthly income**

Part 4: Determine Whether the Means Test Applies to You

15. Calculate your annual income using your total current monthly income from Part 3. Follow these steps:

15a. Copy your total current monthly income from line 14..... Copy line 14 here → 15a.

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

Multiply by 12 (the number of months in a year).

x 12

15b. The result is your annual income for this part of the form.

15b.

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

16. 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. .... 16.

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

To find that information, either go to the Means Test information at http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

17. How do the lines compare?

17a.  Line 15b is less than or equal to line 16. On the top of page 1, check box 1, There is no presumption of abuse. Go to Part 5.

17b.  Line 15b is more than line 16. On the top of page 1, check box 2, The presumption of abuse is determined by Form 22A-2. Go to Part 5 and fill out Form 22A-2.

Part 5: Sign Here

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

x \_\_\_\_\_

Signature of Debtor 1

x \_\_\_\_\_

Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

If you checked 17a, do NOT fill out or file Official Form 22A-2, Chapter 7 Means Test Calculation.

If you checked line 17b, fill out Official Form 22A-2, Chapter 7 Means Test Calculation and file it with this form.

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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 one only as directed in lines 40 or 42:**

According to the calculations required by this Statement:

- 1. There is no presumption of abuse.
- 2. There is a presumption of abuse.
- Check if this is an amended filing

## Official Form 22A-2 Chapter 7 Means Test Calculation

12/13

To fill out this form, you will need your completed copy of Form 22A-1: *Chapter 7 Statement of Your Current Monthly Income (Official Form 22A-1)*.

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: Determine Your Adjusted Income**

1. **Copy your total current monthly income.** ..... Copy line 14 from Official Form 22A-1 here → 1. \$ \_\_\_\_\_

2. **Did you fill out Column B in Part 3 of Official Form 22A-1?**

- No. Fill in \$0 on line 3d.
- Yes. Is your spouse filing with you?
  - No. Go to line 3.
  - Yes. Fill in \$0 on line 3d.

3. **Adjust your current monthly income by subtracting any part of your spouse's income not used to pay for the household expenses of you or your dependents.** Follow these steps:

On line 14, Column B of Form 22A-1, was any amount of the income you reported for your spouse NOT regularly used for the household expenses of you or your dependents?

- No. Fill in 0 on line 3d.
- Yes. Fill in the information below:

State each purpose for which the income was used <small>For example, the income is used to pay your spouse's tax debt or to support people other than you or your dependents</small>	Fill in the amount you are subtracting from your spouse's income
3a. _____	\$ _____
3b. _____	\$ _____
3c. _____	+ \$ _____
3d. <b>Total.</b> Add lines 3a, 3b, and 3c. ....	\$ _____

Copy total here → 3d. - \$ \_\_\_\_\_

4. **Adjust your current monthly income.** Subtract line 3d from line 1. \$ \_\_\_\_\_

Part 2: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 5-14. To find the IRS standards, either go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

Deduct the expense amounts set out in lines 6-15 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not deduct any amounts that you subtracted from your spouse's income in line 3 and do not deduct any operating expenses that you subtracted from income in lines 8 and 9 of Form 22A-1.

If your expenses differ from month to month, enter the average expense.

Whenever this part of the form refers to you, it means both you and your spouse if Column B of Form 22A-1 is filled in.

5. The number of people used in determining your deductions from income

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

[Empty box for line 5]

National Standards You must use the IRS National Standards to answer the questions in lines 6-7.

6. Food, clothing, and other items: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items.

\$ [Empty box for line 6]

7. Out-of-pocket health care allowance: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories — people who are under 65 and people who are 65 or older — because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 22.

People who are under 65 years of age

7a. Out-of-pocket health care allowance per person

\$ [Empty box for line 7a]

7b. Number of people who are under 65

X [Empty box for line 7b]

7c. Subtotal. Multiply line 7a by line 7b.

\$ [Empty box for line 7c]

Copy line 7c here →

\$ [Empty box for line 7c copy]

People who are 65 years of age or older

7d. Out-of-pocket health care allowance per person

\$ [Empty box for line 7d]

7e. Number of people who are 65 or older

X [Empty box for line 7e]

7f. Subtotal. Multiply line 7d by line 7e.

\$ [Empty box for line 7f]

Copy line 7f here →

+ \$ [Empty box for line 7f copy]

7g. Total. Add lines 7c and 7f. Copy total here →

\$ [Empty box for line 7g]

\$ [Empty box for line 7g]

Local Standards You must use the IRS Local Standards to answer the questions in lines 8-15.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities – Insurance and operating expenses
Housing and utilities – Mortgage or rent expenses

Use the U.S. Trustee Program chart to answer the questions in lines 8-9. Go to http://www.justice.gov/ust/ea/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

8. Housing and utilities – Insurance and operating expenses: Using the number of people you entered in line 5, fill in the dollar amount listed for your county for insurance and operating expenses.

\$

9. Housing and utilities – Mortgage or rent expenses:

9a. Using the number of people you entered in line 5, fill in the dollar amount listed for your county for mortgage or rent expenses.

9a. \$

9b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Table with 3 columns: Name of the creditor, Does payment include taxes or insurance?, Average monthly payment. Includes checkboxes for 'No' and 'Yes' and dollar amount fields.

9b. Total average monthly payment

\$

Copy line 9b here ->

-\$

Repeat this amount on line 33a.

9c. Net mortgage or rent expense.

Subtract line 9b (total average monthly payment) from line 9a (mortgage or rent expense). If this amount is less than \$0, enter \$0.

9c. \$

Copy line 9c here ->

\$

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing does not accurately compute the amount that applies to you, fill in any additional amount you claim.

\$

Explain why:

Text input box for explaining why.

11. Local transportation expenses: Check the number of vehicles for which you claim an ownership or operating expense.

- 0. Go to line 14.
1. Go to line 12.
2 or more. Go to line 12.

12. Vehicle operation expense: Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the Operating Costs that apply for your Census region or metropolitan statistical area.

\$

13. Vehicle ownership or lease expense: Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1:

13a. Ownership or leasing costs using IRS Local Standard 13a. \$

13b. Average monthly payment for all debts secured by Vehicle 1. Do not include installment payments for leased vehicles.

To calculate the average monthly payment here and on line 13e, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment

Copy 13b here - \$

Repeat this amount on line 33b.

13c. Net Vehicle 1 ownership or lease expense Subtract line 13b from line 13a. If this amount is less than \$0, enter \$0. 13c.

\$

Copy net Vehicle 1 expense here ->

\$

Vehicle 2 Describe Vehicle 2:

13d. Ownership or leasing costs using IRS Local Standard 13d. \$

13e. Average monthly payment for all debts secured by Vehicle 2. Do not include costs for leased vehicles.

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment

Copy here - \$

Repeat this amount on line 33c.

13f. Net Vehicle 2 ownership or lease expense Subtract line 13e from 13d. If this amount is less than \$0, enter \$0. 13f.

\$

Copy net Vehicle 2 expense here ->

\$

14. Public transportation expense: If you claimed 0 vehicles in line 11, using the IRS Local Standards, fill in the Public Transportation expense allowance regardless of whether you use public transportation.

\$

15. Additional public transportation expense: If you claimed 1 or more vehicles in line 11 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for Public Transportation.

\$

**Other Necessary Expenses**

In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

16. **Taxes:** The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes.

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

Do not include real estate, sales, or use taxes.

17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs.

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

Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.

18. **Life insurance:** The total monthly premiums that you pay for your term life insurance.

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

Do not include premiums for insurance on your dependents, for whole life, or for any other form of life insurance.

19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments.

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

Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.

20. **Education:** The total monthly amount that you pay for education that is either required:

- as a condition for your job, or
- for your physically or mentally challenged dependent child if no public education is available for similar services.

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

21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool.

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

Do not include payments for any elementary or secondary school education.

22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7.

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

Payments for health insurance or health savings accounts should be listed only in line 25.

23. **Telecommunication services:** The total monthly amount that you pay for telecommunication services, such as pagers, call waiting, caller identification, special long distance, business internet service, and business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer.

+ \$ \_\_\_\_\_

Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 8 of *Official Form 22A-1*, or any amount you previously deducted.

24. **Add all of the expenses allowed under the IRS expense allowances.**

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

Add lines 16 through 23.

**Additional Expense Deductions**

These are additional deductions allowed by the Means Test.

Note: Do not include any expense allowances listed in lines 6-24.

25. **Health insurance, disability insurance, and health savings account expenses.** The monthly expenses for health insurance, disability insurance, and health savings accounts that are reasonably necessary for yourself, your spouse, or your dependents.

Health insurance	\$ _____
Disability insurance	\$ _____
Health savings account	+ \$ _____
Total	\$ _____

Copy total here → ..... \$ \_\_\_\_\_

Do you actually spend this total amount?

No. How much do you actually spend? \$ \_\_\_\_\_

Yes

26. **Continued contributions to the care of household or family members.** The actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses.

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

27. **Protection against family violence.** The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family under the Family Violence Prevention and Services Act or other federal laws that apply.

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

By law, the court must keep the nature of these expenses confidential.

28. **Additional home energy costs.** Your home energy costs are included in your non-mortgage housing and utilities allowance on line 8.

If you believe that you have home energy costs that are more than the home energy costs included in the non-mortgage housing and utilities allowance, then fill in the excess amount of home energy costs.

You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

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

29. **Education expenses for dependent children who are younger than 18.** The monthly expenses (not more than \$147\* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school.

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

You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 6-23.

\* Subject to adjustment on 4/01/13, and every 3 years after that for cases begun on or after the date of adjustment.

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards.

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

To find the maximum additional allowance, either go to <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court.

You must show that the additional amount claimed is reasonable and necessary.

31. **Continuing charitable contributions.** The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 11 U.S.C. § 548(d)(3) and (4).

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

32. **Add all of the additional expense deductions.**

Add lines 25 through 31.

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

**Deductions for Debt Payment**

33. For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 33a through 33g.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

**Average monthly payment**

**Mortgages on your home**

33a. Copy line 9b here ..... \$ \_\_\_\_\_

**Loans on your first two vehicles**

33b. Copy line 13b here. .... \$ \_\_\_\_\_

33c. Copy line 13e here. .... \$ \_\_\_\_\_

Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
33d.		<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33e.		<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33f.		<input type="checkbox"/> No <input type="checkbox"/> Yes	+ \$ _____
33g. Total average monthly payment. Add lines 33a through 33f.....			\$ _____

Copy total here → \$ \_\_\_\_\_

34. Are any debts that you listed in line 33 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- No. Go to line 35.
- Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 34, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

Name of the creditor	Identify property that secures the debt	Total cure amount	Monthly cure amount
		\$ _____ ÷ 60 =	\$ _____
		\$ _____ ÷ 60 =	\$ _____
		\$ _____ ÷ 60 =	+ \$ _____
Total			\$ _____

Copy total here → \$ \_\_\_\_\_

35. Do you owe any priority claims — such as a priority tax, child support, or alimony — that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507

- No. Go to line 36.
Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

Total amount of all past-due priority claims.

Form with input fields for total amount of all past-due priority claims, divided by 60, resulting in a dollar amount.

36. Are you eligible to file a case under Chapter 13? 11 U.S.C. § 109(e). For more information, go to www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter13.aspx

- No. Go to line 37.
Yes. Fill in the following information.

Projected monthly plan payment if you were filing under Chapter 13

Form with input field for projected monthly plan payment.

Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. To find this information, go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

Form with input field for current multiplier, preceded by an 'X'.

Average monthly administrative expense if you were filing under Chapter 13

Form with input field for average monthly administrative expense.

Copy total here ->

Form with input field for total of lines 36a, 36b, and 36c.

37. Add all of the deductions for debt payment. Add lines 33g through 36.

Form with input field for total of lines 33g through 36.

Total Deductions from Income

38. Add all of the allowed deductions.

Copy line 24, All of the expenses allowed under IRS expense allowances.....

Form with input field for line 24.

Copy line 32, All of the additional expense deductions.....

Form with input field for line 32.

Copy line 37, All of the deductions for debt payment.....

Form with input field for line 37, preceded by a '+' sign.

Total deductions

Form with input field for total of lines 38a, 38b, and 38c.

Copy total here ->

Form with input field for total of lines 38a, 38b, and 38c.

Part 3: Determine Whether There Is a Presumption of Abuse

39. Calculate monthly disposable income for 60 months

39a. Copy line 4, adjusted current monthly income.....

Form with input field for line 4.

39b. Copy line 38, Total deductions.....

Form with input field for line 38, preceded by a '-' sign.

39c. Monthly disposable income 11 U.S.C. § 707(b)(2) Subtract line 39b from line 39a.

Form with input field for line 39c.

Copy line 39c here ->

Form with input field for line 39c.

For the next 60 months (5 years)

x 60

39d. Total. Multiply line 39c by 60..... 39d.

Form with input field for line 39d.

Copy line 39d here ->

Form with input field for line 39d.



40. Find out whether there is a presumption of abuse. Check the box that applies:

- The line 39d is less than \$7,025\*. On the top of page 1 of this form, check box 1, *There is no presumption of abuse*. Go to Part 5.
- The line 39d is more than \$11,725\*. On the top of page 1 of this form, check box 2, *There is a presumption of abuse*. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.
- The line 39d is at least \$7,025\*, but not more than \$11,725\*. Go to line 42.

\* Subject to adjustment on 4/01/13, and every 3 years after that for cases filed on or after the date of adjustment.

41. 41a. Fill in the amount of your total nonpriority unsecured debt. If you filled out the *Statistical Summary of Certain Liabilities and Related Data* (Official Form 6), you may refer to line 5 at the bottom of that form.

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

41b. 25% of your total nonpriority unsecured debt. 11 U.S.C. § 707(b)(2)(A)(i)(I)  
Multiply line 41a by 0.25.

x .25  
\$ \_\_\_\_\_

Copy here →

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

42. Determine whether the income you have left over after subtracting all allowed deductions is enough to pay 25% of your unsecured, nonpriority debt.

Check the box that applies:

- Line 39d is less than line 41b. On the top of page 1 of this form, check box 1, *There is no presumption of abuse*. Go to Part 5.
- Line 39d is equal to or more than line 41b. On the top of page 1 of this form, check box 2, *There is a presumption of abuse*. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

43. Do you have any special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative? 11 U.S.C. § 707(b)(2)(B)

- No. Go to Part 5.
- Yes. Fill in the following information. All figures should reflect your average monthly expense or income adjustment for each item. You may include expenses you listed in line 25.

You must give a detailed explanation of the special circumstances that make the expenses or income adjustments necessary and reasonable. You must also give your case trustee documentation of your actual expenses or income adjustments.

Give a detailed explanation of the special circumstances	Average monthly expense or income adjustment
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

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

**X** \_\_\_\_\_  
Signature of Debtor 1

**X** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

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## Official Forms 22A-1 and 22A-2

# Instructions for the Chapter 7 Statement of Your Current Monthly Income and Means Test Calculation

United States Bankruptcy Court

12/01/13

### How to fill out these forms

Official Forms 22A-1 and 22A-2 determine whether your income and expenses create a presumption of abuse that may prevent you from obtaining relief from your debts under chapter 7 of the Bankruptcy Code. Chapter 7 relief can be denied to a person who has primarily consumer debts if the court finds that the person has enough income to repay creditors a portion of their claims set out in the Bankruptcy Code.

You must file 22A-1, the *Chapter 7 Statement of Your Current Monthly Income* (Official Form 22A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income for households of the same size in your state. If your income is not above the median, there is no presumption of abuse and you will not have to fill out the second form.

If your income is above the median, you must file the second form, 22A-2, *Chapter 7 Means Test Calculation* (Official Form 22A-2). The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay other debts. If this amount is high enough, it will give rise to a *presumption of abuse*. A presumption of abuse does not mean you are actually trying to abuse the bankruptcy system. Rather, the presumption simply means that you may have enough income that you should not be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

If you cannot obtain relief under chapter 7, you may be eligible to continue under another chapter of the Bankruptcy Code and pay creditors over a period of time.

Read each question carefully. You may not be required to answer every question on this form. For example, your military status may determine whether you must fill out the entire form. The instructions will alert you if you may skip questions.

If you have nothing to report for a line, write \$0.

Some of the questions require you to go to other sources for information. In those cases, the form has instructions for where to find the information you need.

If you and your spouse are filing together, you and your spouse may file a single statement. However, if an exclusion in Parts 1 or 2 applies to either of you, separate statements may be required. 11 U.S.C. § 707(b)(2)(C).

### Understand the terms used in the form

This form uses *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, this form uses *you* to ask for information from both debtors. 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.

### Things to remember when filling out these forms

- Be as complete and accurate as possible.
- 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).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

**THIS PAGE INTENTIONALLY BLANK**

**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 22B**

**Chapter 11 Statement of Your Current Monthly Income**

12/13

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 during the 6 full months before you filed for bankruptcy.**

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 For Debtor 1	Column B Debtor 2 or non-filing spouse
2. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).	\$ _____	\$ _____
3. <b>Alimony and maintenance payments</b>	\$ _____	\$ _____
4. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Also, include regular contributions from a spouse if Column B is not filled in. Do not include payments you listed on line 3.	\$ _____	\$ _____
5. <b>Net income from operating a business, profession, or farm</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	– \$ _____	
Net monthly income from a business, profession, or farm	\$ _____	\$ _____
6. <b>Net income from rental and other real property</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	– \$ _____	
Net monthly income from rental or other real property	\$ _____	\$ _____

	Column A For Debtor 1	Column B Debtor 2 or non-filing spouse
<b>7. Interest, dividends, and royalties</b>	\$ _____	\$ _____
<b>8. Unemployment compensation.</b> 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 .....	\$ _____	
<b>9. Pension or retirement income.</b> Do not include any amount received that was a benefit under the Social Security Act.	\$ _____	\$ _____
<b>10. Income from all other sources not listed above.</b> Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.		
10a. _____	\$ _____	\$ _____
10b. _____	\$ _____	\$ _____
10c. Total amounts from separate pages, if any.	+ \$ _____	+ \$ _____
<b>11. Calculate your total current monthly income.</b> Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	\$ _____	+ \$ _____ = \$ _____
		<b>Total current monthly income</b>

**Part 2: Sign Here**

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

**X** \_\_\_\_\_  
 Signature of Debtor 1

**X** \_\_\_\_\_  
 Signature of Debtor 2

Date \_\_\_\_\_  
 MM / DD / YYYY

Date \_\_\_\_\_  
 MM / DD / YYYY

## Official Form 22B

# Instructions for the Chapter 11 Statement of Your Current Monthly Income

United States Bankruptcy Court

12/01/13

### How to Fill Out this Form

You must file the *Chapter 11 Statement of Your Current Monthly Income* (Official Form 22B) if you are an individual filing for bankruptcy under Chapter 11.

If you have nothing to report for a line, write \$0.

### Understand the terms used in the form

This form uses *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, this form uses *you* to ask for information from both debtors. 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.

### Things to remember when filling out this form

- Be as complete and accurate as possible.
- 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 two married people are filing together, both are equally responsible for supplying correct information.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

**THIS PAGE INTENTIONALLY BLANK**



**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 22C-1**

**Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period**

**12/13**

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 For Debtor 1	Column B Debtor 2 or non-filing spouse
2. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).	\$ _____	\$ _____
3. <b>Alimony and maintenance payments</b>	\$ _____	\$ _____
4. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Also, include regular contributions from a spouse if Column B is not filled in. Do not include payments you listed on line 3.	\$ _____	\$ _____
5. <b>Net income from operating a business, profession, or farm</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	– \$ _____	
Net monthly income from a business, profession, or farm	\$ _____	\$ _____

Copy here →

Column A  
For Debtor 1

Column B  
Debtor 2 or  
non-filing spouse

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

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**

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

**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.

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

**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 or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.

10a. \_\_\_\_\_ \$ \_\_\_\_\_

10b. \_\_\_\_\_ \$ \_\_\_\_\_

10c. 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 in line 13d.
- You are married and your spouse is filing with you. Fill in 0 in line 13d.
- 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.

In lines 13a-c, 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 on line 13d.

13a. \_\_\_\_\_ \$ \_\_\_\_\_

13b. \_\_\_\_\_ \$ \_\_\_\_\_

13c. \_\_\_\_\_ + \$ \_\_\_\_\_

Total \$ \_\_\_\_\_ Copy here. → 13d. - \$ \_\_\_\_\_

14. Your current monthly income. Subtract line 13d from line 12. 14. \$

15. Calculate your current monthly income for the year. Follow these steps:

15a. Copy line 14 here → ..... 15a. \$

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. 15b. \$

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..... 16c. \$

To find that information, either go to the Means Test information at http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court .

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 Official Form 22C-2: Calculation of Disposable Income.

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 Official Form 22C-2: Calculation of Disposable Income. On line 35 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. .... 18. \$

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 13d.

If the marital adjustment does not apply, fill in 0 on line 19a.

19a. \$

Subtract line 19a from line 18.

19b. \$

20. Calculate your current monthly income for the year. Follow these steps:

20a. Copy line 19b.. ..... 20a. \$

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. 20b. \$

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. 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. 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 Here**

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

**x** \_\_\_\_\_  
Signature of Debtor 1

**x** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

If you checked 17a, do NOT fill out or file Official Form 22C-2: *Calculation of Disposable Income*.

If you checked 17b, fill out Official Form 22C-2: *Calculation of Disposable Income* and file it with this form. On line 35 of that form, copy your current monthly income from line 14 above.

**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 22C-2

### Chapter 13 Calculation of Your Disposable Income

12/13

To fill out this form, you will need your completed copy of Form 22C-1: *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period*.

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 Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 1-11. To find the IRS standards, either go to <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court.

Deduct the expense amounts set out in lines 1-11 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not include any operating expenses that you subtracted from income in lines 5 and 6 of Official Form 22C-1, and do not deduct any amounts that you subtracted from your spouse's income in line 13 of Form 22C-1.

If your expenses differ from month to month, enter the average expense.

Whenever this part of the form refers to *you*, it means both you and your spouse if Column B is filled in.

**1. The number of people used in determining your deductions from income**

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

**National Standards** You must use the IRS National Standards to answer the questions in lines 2-3.

**2. Food, clothing, and other items:** Using the number of people you entered in line 1 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items.

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

3. Out-of-pocket health care allowance: Using the number of people you entered in line 1 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories—people who are under 65 and people who are 65 or older—because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 18.

People who are under 65 years of age

3a. Out-of-pocket health care allowance per person \$
3b. Number of people who are under 65 X
3c. Subtotal. Multiply line 3a by line 3b. \$

Copy line 3c here \$

People who are 65 years of age or older

3d. Out-of-pocket health care allowance per person \$
3e. Number of people who are 65 or older X
3f. Subtotal. Multiply line 3d by 3e. \$

Copy line 3f here + \$

3g. Total. Add lines 3c and 3f.

\$ Copy total here 3g. \$

Local Standards You must use the IRS Local Standards to answer the questions in lines 5-11.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities – Insurance and operating expenses
Housing and utilities – Mortgage or rent expenses

Refer to the U.S. Trustee website to answer the questions in lines 4-5. Go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

4. Housing and utilities – Insurance and operating expenses: Using the number of people you entered in line 1, fill in the dollar amount listed for your county for insurance and operating expenses.

\$

5. Housing and utilities – Mortgage or rent expenses:

5a. Using the number of people you entered in line 1, fill in the dollar amount listed for your county for mortgage or rent expenses.

\$

5b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Next divide by 60.

Table with 2 columns: Name of the creditor, Average monthly payment. Includes a plus sign and dollar signs for calculations.

5b. Total average monthly payment \$

Copy line 5b here - \$

Repeat this amount on line 29a.

5c. Net mortgage or rent expense.

Subtract line 5b (total average monthly payment) from line 5a (mortgage or rent expense). If this number is less than \$0, enter \$0.

\$

Copy 5c here

\$

6. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing does not accurately compute the amount that applies to you, fill in any additional amount you claim.

\$

Explain why:

7. Local transportation expenses: Check the number of vehicles for which you claim an ownership or operating expense.

- 0. Go to line 10.
1. Go to line 8.
2 or more. Go to line 8.

8. Vehicle operation expense: Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the Operating Costs that apply for your Census region or metropolitan statistical area.

\$

9. Vehicle ownership or lease expense: Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1:

9a. Ownership or leasing costs using IRS Local Standard

9a. \$

9b. Average monthly payment for all debts secured by Vehicle 1. Do not include costs for leased vehicles.

To calculate the average monthly payment here and on line 9e, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment. Includes a \$ entry.

Copy 9b here ->

\$

Repeat this amount on line 29b.

9c. Net Vehicle 1 ownership or lease expense. Subtract line 9b from line 9a. If this number is less than \$0, enter \$0.

9c. \$

Copy net Vehicle 1 expense here ->

\$

Vehicle 2 Describe Vehicle 2:

9d. Ownership or leasing costs using IRS Local Standard

9d. \$

9e. Average monthly payment for all debts secured by Vehicle 2. Do not include costs for leased vehicles.

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment. Includes a \$ entry.

Copy here ->

\$

Repeat this amount on line 29c.

9f. Net Vehicle 2 ownership or lease expense. Subtract line 9e from 9d. If this number is less than \$0, enter \$0.

9f. \$

Copy net Vehicle 2 expense here ->

\$

10. Public transportation expense: If you claimed 0 vehicles in line 7, using the IRS Local Standards, fill in the Public Transportation expense allowance regardless of whether you use public transportation.

\$

11. Additional public transportation expense: If you claimed 1 or more vehicles in line 7 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for Public Transportation.

\$

**Other Necessary Expenses**

In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

12. **Taxes:** The total monthly amount that you actually pay for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. If you expect to receive a tax refund, you must divide the refund by 12 and subtract that number from the total monthly amount you actually pay for taxes. Do not include real estate or sales taxes. \$ \_\_\_\_\_

13. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings. \$ \_\_\_\_\_

14. **Life insurance:** The total monthly premiums that you pay for your term life insurance. Do not include premiums for insurance on your dependents, for whole life, or for any other form of life insurance. \$ \_\_\_\_\_

15. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 31. \$ \_\_\_\_\_

16. **Education:** The total monthly amount that you pay for education that is either required:  
 as a condition for your job, or  
 for your physically or mentally challenged dependent child if no public education is available for similar services. \$ \_\_\_\_\_

17. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. Do not include payments for any elementary or secondary school education. \$ \_\_\_\_\_

18. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 3. Payments for health insurance or health savings accounts should be listed only in line 21. \$ \_\_\_\_\_

19. **Telecommunication services:** The total monthly amount that you pay for telecommunication services, such as pagers, call waiting, caller identification, special long distance, business internet service, and business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 5 of *Official Form 22C-1*, or any amount you previously deducted. + \_\_\_\_\_

20. **Add all of the expenses allowed under the IRS expense allowances.** Add lines 2 through 19. \$ \_\_\_\_\_



Additional Expense Deductions

These are additional deductions allowed by the Means Test.

Note: Do not include any expense allowances listed in lines 2-20.

21. Health insurance, disability insurance, and health savings account expenses. The monthly expenses for health insurance, disability insurance, and health savings accounts that are reasonably necessary for yourself, your spouse, or your dependents.

Health insurance \$
Disability insurance \$
Health savings account + \$
Total \$

Copy total here -> \$

Do you actually spend this total amount?

No. How much do you actually spend? \$
Yes

22. Continuing contributions to the care of household or family members. The actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses.

\$

23. Protection against family violence. The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family under the Family Violence Prevention and Services Act or other federal laws that apply.

\$

By law, the court must keep the nature of these expenses confidential.

24. Additional home energy costs. Your home energy costs are included in your non-mortgage housing and utilities allowance on line 4.

If you believe that you have home energy costs that are more than the home energy costs included in the non-mortgage housing and utilities allowance, then fill in the excess amount of home energy costs.

\$

You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

25. Education expenses for dependent children who are younger than 18. The monthly expenses (not more than \$147\* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school.

\$

You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 2-19.

\* Subject to adjustment on 4/01/13, and every 3 years after that for cases begun on or after the date of adjustment.

26. Additional food and clothing expense. The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards.

\$

To find the maximum additional allowance, either go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

You must show that the additional amount claimed is reasonable and necessary.

27. Continuing charitable contributions. The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 11 U.S.C. § 548(d)(3) and (4).

+

Do not include any amount more than 15% of your gross monthly income.

28. Add all of the additional expense deductions.

\$

Add lines 21 through 27.

**Deductions for Debt Payment**

29. For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 29a through 29g.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

			Average monthly payment
<b>Mortgages on your home</b>			
29a. Copy line 5b here .....			\$ _____
<b>Loans on your first two vehicles</b>			
29b. Copy line 9b here. ....			\$ _____
29c. Copy line 9e here. ....			\$ _____
Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
29d.		<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
29e.		<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
29f.		<input type="checkbox"/> No <input type="checkbox"/> Yes	+ \$ _____
29g. Total average monthly payment. Add lines 29a through 29f. ....			\$ _____

Copy total here → \$ \_\_\_\_\_

30. Are any debts that you listed in line 29 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- No. Go to line 31.
- Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 29, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

Name of the creditor	Identify property that secures the debt	Total cure amount	Monthly cure amount
		\$ _____ ÷ 60 =	\$ _____
		\$ _____ ÷ 60 =	\$ _____
		\$ _____ ÷ 60 =	+ \$ _____
Total			\$ _____

Copy total here → \$ \_\_\_\_\_

31. Do you owe any priority claims — such as a priority tax, child support, or alimony — that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507

- No. Go to line 32.
- Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 15.

Total amount of all past-due priority claims. \$ \_\_\_\_\_ ÷ 60 = \$ \_\_\_\_\_

32. Projected monthly Chapter 13 plan payment

Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. To find this information, go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office

Average monthly administrative expense

Form with fields for dollar amounts and a 'Copy total here' instruction with an arrow.

33. Add all of the deductions for debt payment. Add lines 29 through 32.

Total Deductions from Income

34. Add all of the allowed deductions.

Copy line 20, All of the expenses allowed under IRS expense allowances

Copy line 28, All of the additional expense deductions

Copy line 33, All of the deductions for debt payment

Total deductions

Form with fields for dollar amounts and a 'Copy total here' instruction with an arrow.

Part 2: Determine Your Disposable Income Under 11 U.S.C. § 1325(b)(2)

35. Copy your total current monthly income from line 14 of Form 22C-1, Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period.

Form with a dollar amount field.

36. Fill in any reasonably necessary income you receive for support for dependent children. The monthly average of any child support payments, foster care payments, or disability payments for a dependent child, reported in Part I of Form 22C-1, that you received in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child.

Form with a dollar amount field.

37. Fill in all qualified retirement deductions. The monthly total of all amounts that your employer withheld from wages as contributions for qualified retirement plans, as specified in § 541(b)(7) plus all required repayments of loans from retirement plans, as specified in § 362(b)(19).

Form with a dollar amount field.

38. Total of all deductions allowed under 11 U.S.C. § 707(b)(2)(A). Copy line 34.

Form with a dollar amount field.

39. Deduction for special circumstances. If special circumstances justify additional expenses and you have no reasonable alternative, describe the special circumstances and their expenses. You must give your case trustee a detailed explanation of the special circumstances and documentation for the expenses.

Table with 2 columns: Describe the special circumstance, Amount of expense. Rows 39a, 39b, 39c, and 39d.Total.

Form with a 'Copy 39d here' instruction and a plus sign followed by a dollar amount field.

40. Total adjustments. Add lines 36 through 39d.

\$ \_\_\_\_\_ Copy total here → - \$ \_\_\_\_\_

41. Calculate your monthly disposable income under § 1325(b)(2). Subtract line 40 from line 35.

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

Part 3: Change in Income or Expenses

42. Change in income or expenses. If the income in Form 22C-1 or the expenses you reported in this form has changed or is virtually certain to change during the 12 months after the date you filed your bankruptcy petition, fill in the information below. For example, if the wages reported increased after you filed your petition, check 22C-1 in the first column, enter line 2 in the second column, explain why the wages increased, fill in when the increase occurred, and fill in the amount of the increase.

Form	Line	Reason for change	Date of change	Increase or decrease?	Amount of change
<input type="checkbox"/> B22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> B22C-2	_____		_____	<input type="checkbox"/> Decrease	
<input type="checkbox"/> B22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> B22C-2	_____		_____	<input type="checkbox"/> Decrease	
<input type="checkbox"/> B22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> B22C-2	_____		_____	<input type="checkbox"/> Decrease	
<input type="checkbox"/> B22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> B22C-2	_____		_____	<input type="checkbox"/> Decrease	

Part 4: Sign Here

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

X \_\_\_\_\_  
Signature of Debtor 1

X \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

## Official Forms 22C–1 and 22C–2

### Instructions for the Chapter 13 Statement of Your Current Monthly Income, Calculation of Commitment Period and Chapter 13 Calculation of Your Disposable Income

United States Bankruptcy Court

12/01/13

#### How to Fill Out these Forms

Official Forms 22C–1 and 22C–2 determine the period for your payments to creditors, how the amount you may be required to pay to creditors is established, and, in some situations, how much you must pay.

You must file 22C–1, the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 22C–1) if you are an individual and you are filing under chapter 13. This form will determine your current monthly income and determine whether your income is below the median income for households of the same size in your state. If your income is not above the median, you will not have to fill out the second form. Form 22C–1 also will determine your applicable commitment period—the time period for making payments to your creditors.

If your income is above the median, you must file the second form, 22C–2, *Chapter 13 Calculation of Your Disposable Income*. The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay unsecured debts. Your chapter 13 plan may be required to provide for payment of this amount toward unsecured debts.

Read each question carefully. You may not be required to answer every question on this form. The instructions will alert you if you may skip questions.

Some of the questions require you to go to other sources for information. In those cases, the form has instructions for where to find the information you need.

If you and your spouse are filing together, you and your spouse must file a single statement.

#### Understand the terms used in these form

These 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. When information is needed about the spouses separately, the forms use *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.

#### Things to remember when filling out this form

- Be as complete and accurate as possible.
- 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 two married people are filing together, both are equally responsible for supplying correct information.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

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## COMMITTEE NOTE

Official Forms 22A-1, 22A-2, 22C-1, and 22C-2 are new versions of the “means test” forms used by individuals in chapter 7 and 13, formerly Official Forms 22A and 22C. The original forms were substantially revised as part of the Forms Modernization Project. Official Form 22B, used by individuals in chapter 11, has also been revised as part of the project, which was designed so that the individuals completing the forms would do so more accurately and completely.

The revised versions of the means test forms present the relevant information in a format different from the original forms. For chapter 7, former Official Form 22A has been split into two forms: 22A-1 and 22A-2. The first form, Official Form 22A-1, *Chapter 7 Statement of Your Current Monthly Income*, is to be completed by all chapter 7 debtors. It calculates a debtor’s current monthly income and compares that calculation to the median income for households of the same size in the debtor’s state. The second form, Official Form 22A-2, *Chapter 7 Means Test Calculation*, is to be completed only by those chapter 7 debtors whose income is above the applicable state median.

For chapter 13, there is a similar split of income and expense calculations. All chapter 13 debtors must complete Official Form 22C-1, *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period*, which calculates current monthly income and the plan commitment period. Debtors only need to complete the second form, Official Form 22C-2, *Chapter 13 Calculation of Your Disposable Income*, if their current monthly income exceeds the applicable median. Form 22C-2 calculates disposable income under 11 U.S.C. § 1325(b)(3), through a report of allowed expense deductions.

Line 60 of former Official Form 22C has not been repeated in Official Form 22C-2. This line allowed debtors to list, but not deduct from income, “Other Necessary Expense” items that are not included within the categories specified by the Internal Revenue Service. Because debtors are separately allowed to list—and deduct—any expenses arising from special circumstances, former Line 60 was rarely used.

Form 22C-2 also reflects the Supreme Court’s decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010). Adopting a forward-looking approach, the Court held in *Lanning* that the calculation of a chapter 13 debtor’s projected disposable income under § 1325(b)

required consideration of changes to income or expenses reported elsewhere on former Official Form 22C that, at the time of plan confirmation, had occurred or were virtually certain to occur. Those changes could result in either an increased or decreased projected disposable income. Because only debtors whose annualized current monthly income exceeds the applicable median family income have their projected disposable income determined by the information provided on Official Form 22C-2, only these debtors are required to provide the information about changes to income and expenses on Official Form 22C-2. Part 3 of Official Form 22C-2 provides for the reporting of those changes.

In reporting changes to income a debtor must indicate whether the amounts reported in Official Form 22C-1—which are monthly averages of various types of income received during the six months prior to the filing of the bankruptcy case—have already changed or are virtually certain to change during the 12 months following the filing of the bankruptcy petition. For each change, the debtor must indicate the line of Official Form 22C-1 on which the amount to be changed was reported, the reason for the change, the date of its occurrence, whether the change is an increase or decrease of income, and the amount of the change. Similarly, in reporting changes to expenses, a debtor must list changes to the debtor's actual expenditures reported in Part 1 of Official Form C-2 that are virtually certain to occur during the 12 months following the filing of the bankruptcy petition. With respect to the deductible amounts reported in Part 1 that are determined by the IRS national and local standards, only changed amounts that result from changed circumstances in the debtor's life—such as the addition of a family member or the surrender of a vehicle—should be reported. For each change in expenses, the same information required to be provided for income changes must be reported.

Unlike former Official Forms 22A and 22C, line 23 of Official Form 22A-2 and line 19 of Official Form 22C-2 permit the deduction of cell phone expenses necessary for the production of income if those expenses have not been reimbursed by the debtor's employer or deducted by the debtor in calculating net self-employment income. The same lines also state that expenses for internet service may be deducted as a telecommunication services expense only if necessary for the production of income. Under IRS guidelines adopted in 2011, expenses for home internet service used for other purposes are included in the Local Standards for Housing and utilities—Insurance and operating expenses.



# APPENDIX C

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APPENDIX C

**DRAFT MINUTES OF THE MEETING OF MARCH 29 - 30, 2012**

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ADVISORY COMMITTEE ON BANKRUPTCY RULES  
Meeting of March 29 - 30, 2012  
Phoenix, Arizona

**(DRAFT MINUTES)**

The following members attended the meeting:

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

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter  
District Judge James A. Teilborg, liaison from the Committee on Rules of Practice and Procedure (Standing Committee)  
District Judge Joan Humphrey Lefkow, liaison from the Committee on the Administration of the Bankruptcy System (Bankruptcy Committee)  
Professor Daniel Coquillette, reporter of the Standing Committee  
Peter G. McCabe, secretary of the Standing Committee  
Patricia S. Ketchum, advisor to the Committee  
Ramona D. Elliott, Deputy Director /General Counsel, Executive Office for U.S. Trustees (EOUST)  
Lisa Tracy, Associate General Counsel, EOUST  
James J. Waldron, Clerk, U.S. Bankruptcy Court for the District of New Jersey  
Jonathan Rose, Rules Committee Support Officer, Administrative Office of the U.S. Courts (Administrative Office)  
Benjamin Robinson, Administrative Office  
James H. Wannamaker, Administrative Office  
Scott Myers, Administrative Office  
Molly Johnson, Federal Judicial Center (FJC)  
Lauren Rosi, Senior Products Analyst, VISA

Raymond J. Obuchowski, Esq., on behalf of the National Association of Bankruptcy Trustees.

Professor Troy McKenzie, assistant reporter, was unable to attend the meeting.

Introductory Items

1. Greetings.

The Chair asked participants to introduce themselves, and he welcomed Ramona Elliott to her first meeting as the Committee's liaison from the Executive Office for U.S. Trustees. The Chair also congratulated Judge Jordon on his ascent to the appellate bench.

2. Approval of minutes of the Chicago meeting of September 26 – 27, 2011.

**The Committee approved the Chicago minutes with several minor changes.**

3. Oral reports on meetings of other committees.

- (A) January 2012 meeting of the Committee on Rules of Practice and Procedure (the Standing Committee).

The Chair reported that the Standing Committee approved all of the Advisory Committee's recommendations. He noted that one topic of conversation was the terminology to use to convey the idea of electronic transmission in the context of the revised bankruptcy appellate rules projected for publication this fall. The Reporter added that a special committee drawn from all the advisory committees would consider the issue, and that Jim Waldron would represent this Committee on the project.

The Reporter also explained that in approving publication this fall of the Committee's proposed amendment to Rule 7054, the Standing Committee corrected a long-standing grammatical error in the first sentence of subsection (b) by changing the verb "provides" to "provide."

- (B) January 2012 meeting of the Committee on the Administration of the Bankruptcy System.

Judge Perris attended the meeting on behalf of the Chair. She and Judge Lefkow said that cost containment and development of a policy for recall judges dominated the agenda. Judge Perris added that she was concerned during the technology discussion that access by external users to bankruptcy data under NextGen was being conflated with allowing people access to data about judicial decisions.

- (C) November 2011 and March 2012 meetings of the Advisory Committee on Civil Rules.

Judge Harris said that proposed amendments to Rule 45 were approved for publication and that the Civil Rules Committee recommended final approval at its March 2012 meeting with some modifications in response to public comments. He noted the impact in bankruptcy of the Rule 45 change would be discussed at Agenda Item 8-D. He said the focus of much of the rest of the Civil Rules Committee meeting was on rule changes dealing with e-discovery and evidence preservation that came out of the mini-conference held at Duke University in the spring of 2011. He said e-discovery/preservation rule changes might be ready for publication in the summer of 2013.

- (D) October 2011 meeting and upcoming April 2012 meeting of the Advisory Committee on Evidence.

Judge Wizmur said the restyled evidence rules went into effect last December, and that a number of rule changes are under consideration. She said the Evidence Committee is also working on the “privilege project” which will be a compendium of federal common law privileges.

- (E) October 2011 meeting and upcoming April 2012 meeting of the Advisory Committee on Appellate Rules.

The Reporter said that there are two issues under consideration by the Appellate Rules Committee that affect bankruptcy appeals. A change to Appellate Rule 6, which deals with bankruptcy appeals, is on track to be published this summer. The timing is designed to coincide with the proposal at Agenda Item 9-A of this meeting that the Committee approve publication this summer of the revised Bankruptcy Part VIII rules.

The Reporter said that a proposed change to Appellate Rule 28(a)(6), requiring that an appellate brief combine into one section the statement of the case and the proposed facts was relevant to Part VIII revision because the bankruptcy version of the rule tracks the language of the appellate rule.

- (F) Bankruptcy CM/ECF Working Group and the CM/ECF NextGen Project.

Judge Perris reported that NextGen has progressed to the point that the CM/ECF Working Group and CM/ECF NextGen are merging. NextGen will become CM/ECF, and the plan is to reuse as much of the existing CM/ECF code as possible. She said the roll out would be an iterative process and the first version, which would have limited new functionality, probably would not be operational until 2014.

Jim Waldron spoke about the bankruptcy *pro se* “Pathfinder” that was created to pilot some of the capabilities of NextGen. He explained that the Pathfinder was designed to facilitate electronic filing by unrepresented debtors. He said it was in the debugging process now, and that he expected it would go live in three courts (D-NJ, D-NM and CD-CA) in June 2012. Judge Perris added that the *pro se* Pathfinder works a little like TurboTax, and that the language for the input questions was derived from the new forms being worked on by the Forms Modernization Project (the FMP). She said that the work of the FMP would be discussed at Agenda Item 7-A, along with a recommendation to publish several FMP forms this fall.

Subcommittee Reports and Other Action Items

4. Report by the Subcommittee on Consumer Issues.

- (A) Recommendation on comment received on published amendments to Rule 3007(a).

Judge Harris directed members to the Reporter’s memo in the agenda materials for a summary of the reasons that the Advisory Committee published an amendment to Rule 3007(a) last fall that would allow for negative notice on claims objections. He said Subcommittee now recommends deferring action on the proposal for two reasons. First, there was one objection to the proposal that warranted further consideration. Second, the chapter 13 working group is considering multiple vehicles for objecting to claims, including handling the objections in plans. Judge Harris said that exercise requires developing a uniform service standard that would apply both to plans and claims objections outside a chapter 13 plan.

One member questioned whether a uniform negative notice procedure needed to be considered at the same time as objections made through a chapter 13 plan and suggested moving forward on the comment against the negative notice process published last fall. But other members favored considering all the issues at the same time, **and a motion to defer passed without objection.**

- (B) Recommendation concerning Suggestion (11-BK-B) by Judge A. Benjamin Goldgar to amend Rule 3002(a) to require secured creditors to file proofs of claim.

Judge Harris said that the Consumer and Business Subcommittees have different recommendations about whether secured creditors in all chapters should be required to file proofs of claim. The Consumer Subcommittee favors such a requirement, but the Business Subcommittee had concerns about unintended consequences in chapter 11. Several Business Subcommittee members added they are reluctant to support a requirement to file secured claims in part because the current lack of such a requirement has not been an issue in chapter 11.



Judge Harris said that in light of the opposition by some members, the Consumer Subcommittee recommends deferring the issue for this meeting while it considers potential changes to the time limits in chapters 12 and 13. He said the Subcommittee requested guidance, however, on whether the proposal should apply just in chapters 12 and 13, or in all chapters.

Judge Wizmur repeated the general concern of unintended consequences in chapter 11, and Mr. Kohn said one example was a concern about unnecessarily submitting to the bankruptcy court's jurisdiction by filing a proof of claim, even when the claimant is not disputing the debtor's admission of debt as reported on the schedules. He said the proposed process would impose an unnecessary procedure when claims are uncontested.

Mr. Baxter did not oppose further consideration by the Consumer Subcommittee, but he said that there is no current problem in chapter 11. He agreed that creditors sometimes choose not to file a proof of claim in chapter 11 to avoid submitting themselves to the Bankruptcy Court's jurisdiction. But, Mr. Rao questioned whether imposing a claims filing date in chapter 11 would affect jurisdiction. If the creditor does not dispute the amount the debtor lists on the schedules, there is no need to file a claim. But if there is a dispute and the creditor wants the court to resolve it, a claim will have to be filed, and the proposal just provides a deadline in those situations.

One member wondered if a claim secured by the right of set-off might be affected by a mandatory filing deadline, and another member said a negative implication might arise if there is a requirement to file secured claims in chapter 13 but not other chapters.

After further discussion, members agreed that more study is needed, and **a motion to defer consideration until the proposed chapter 13 plan and rules are ready for consideration passed without objection.**

- (C) Recommendation concerning Suggestion (10-BK-H) by chapter 13 trustee Debra L. Miller to amend Rule 3002 to provide a deadline for filing deficiency claims resulting from the sale of collateral.

For the reasons set forth in the Assistant Reporter's memo in the agenda materials, the Subcommittee concluded that the proposed amendment is unnecessary. **Accordingly, the Committee took no further action.**

- (D) Recommendation concerning technical amendments to Rule 4004(c)(1) to clarify the introductory language and to conform to the simultaneous amendment of Rule 1007(b)(7).

Judge Harris explained that the proposed changes to Rule 4004(c)(1) were meant to conform the rule to pending changes to Rule 1007(b)(7) that are scheduled to take effect December 1, 2013. **The Committee approved the technical amendments to Rule 4004(c)(1) described in the Reporter's memo in the agenda materials, subject to restyling, effective December 1, 2013.** Because the changes would merely conform the rule to pending changes to Rule 1007(b)(7), the Committee concluded that publication is not necessary.

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

- (A) Recommendation concerning comments received on published amendments to Official Form 6C. *Memo at Tab A5(A) of the Addendum to the agenda materials.*

Judge Harris said that the proposed amendment to Official Form 6C proved controversial. The amendment, intended to reflect the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010), would have added a checkbox to the form that would allow debtors to state the value of a claimed exemption as the "full fair market value of the exempted property." Judge Harris said that testimony from the National Association of Bankruptcy Trustees (the NABT), as well as several written comments, was that the checkbox approach would mislead *pro se* debtors. Most exemptions are statutorily defined dollar amounts and so might be held to only be properly claimed in dollar terms. The NABT was concerned that the checkbox approach would lead to many assertions of full market value exemption without legal basis that would generate objections from the trustee and slow down the bankruptcy process. Moreover, critics said, debtor counsel familiar with *Schwab* were already making the "full market value" exemption on the existing version of the form in appropriate circumstances, so there seemed little need to prompt the language through a checkbox.

Consumer groups generally favored the checkbox approach because many debtors would not be aware of the *Schwab* language, and Judge Harris said that at least one subcommittee member favored approving the form as published. Because many attorneys were already writing *Schwab* language into the existing version of the form, however, the majority of the Subcommittee recommended withdrawing the amendment at this time, and asking the Forms Modernization Project to consider any *Schwab* revisions.

Judge Harris also reported that the Subcommittees had considered whether rule amendments might be proposed in order to obtain prompt determinations of a trustee's decision whether to administer assets not fully exempted, but that none of the several suggestions for amendments appeared workable.

Committee members discussed the comments, and **a motion to withdraw the amendment to Official Form 6C passed with two dissenting votes. The vote withdrawing the amendment included a disclaimer that the Advisory Committee was not expressing an opinion or making an inference about the emerging practice of writing in *Schwab* language**

**on the current version of the form.** The Chair asked the Forms Modernization Project to further consider an amendment to Official Form 6C that would more directly address the *Schwab* decision while accounting for the concerns raised in the comments.

- (B) Recommendation concerning comments received on published amendments to Rule 1007 and Rule 5009 and the conforming amendment to Form 23.

The Chair said that the published amendments to Rule 1007 and Rule 5009, and the conforming amendment to Official Form 23 (previously approved at the fall 2010 meeting and held in the bullpen), were designed to relieve the debtor of the obligation to file Form 23 if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course.

He said the comments were generally favorable with one objection, by attorney Jeanne C. Hovenden, who argued that the debtor's attorney might recommend not filing the certificate because in rare circumstances a discharge might not be in the debtor's best interest. (Although not discussed at the meeting, a late-filed comment from Mr. Raymond P. Bell supported Ms. Hovenden). The Chair explained, however, that there are other methods of avoiding or waiving the discharge if that appears prudent in a particular circumstance, and he recommended that the proposed amendments be approved.

**After discussing the arguments for and against the proposed amendments, the Advisory Committee approved Rules 1007 and 5009 as published, and decided to hold the conforming revision to Official Form 23 in bullpen until the spring 2013 meeting, so the rules and forms would all be on track to become effective December 1, 2013.**

- (C) Report on planning for a mini-conference to be held in conjunction with the Advisory Committee's fall meeting to gather input on the new mortgage forms, Form 10 (Attachment A), Form 10 (Supplement 1), and Form 10 (Supplement 2), and the desirability of including a complete loan history on Form 10 (Attachment A).

Judge Perris said that the Consumer and Forms Subcommittees have begun planning for a mini-conference on the mortgage forms to ensure that these forms are enabling debtors and trustees to obtain the information they need to deal properly with home mortgages and that the disclosure requirements are not imposing an undue burden on mortgage creditors or costs on the debtors. She said that the mini-conference would be held the day before the fall Advisory Committee meeting and that it would be designed to allow the Advisory Committee to determine – with the benefit of actual experience with the new forms – whether any refinements are needed.

She said that the two Subcommittees planned to invite the following constituencies as participants: home mortgage servicers and attorneys, consumer debtor attorneys, chapter 13 trustees, bankruptcy judges, and clerks of courts. The next steps will be to contact the targeted participants, both to solicit suggestions for issues that the mini-conference should address and to identify about 20 representative attendees.

- (D) Recommendation concerning Suggestion 11-BK-D by chapter 13 trustee staff attorney Sabrina L. McKinney to provide a space on the proof of claim (Form 10) to designate the general unsecured amount of a claim and recommendation to eliminate the instruction to attach a power of attorney, if any.

The Reporter explained that there were two issues pertaining to the proof of claim form for the Advisory Committee to consider. A chapter 13 staff attorney, Sabrina McKinney, raised the first issue. The Reporter said that the way the proof of claim form breaks out the constituent parts (general unsecured, priority unsecured, and secured) and reports the total claim amount has changed over the years. As described in the agenda materials, the proof of claim form has been changed three times in the past 15 years – sometimes requiring the creditor to state the total claim amount and then report only that amount unless some portion of the claim is entitled to secured or priority status, and sometimes requiring the creditor to report constituent amounts (general unsecured, priority unsecured, and secured) and then add the constituent parts to the total claim amount.

The form was changed to its present form (requiring the creditor to state the total claim amount and then report the priority or secured amounts only if relevant) in 2007, because adding up the reported constituent amounts in the prior version often resulted in a total that was different than the total amount claimed. Because the differences between the sum of the constituent parts and the total amount claimed are sometimes due to arithmetic errors, and sometimes because constituent parts overlap (for example, a claim can both be secured and entitled to priority treatment), any discrepancy required extra attention by the trustee.

The Reporter said Ms. McKinney nevertheless suggests changing the form back to its pre-2007 version because she has found that without a space to specifically set general unsecured claims, creditors misidentify their claims as secured or entitled to priority.

Because both methods of reporting the constituent and total claim amounts have had critics over the years, and the form was only recently changed, the Joint Subcommittee recommended no further changes at this time. The Reporter noted, however, that new forms are being drafted by the Forms Modernization Project in the context of the next generation of CM/ECF, and that there may be a technological solution to the issue. **After a short discussion, the matter was referred to the Forms Modernization Project to be considered in the ordinary course.**

The Reporter said that member John Rao suggested eliminating the parenthetical in the signature block that requires the creditor's agent to "attach a power of attorney, if any." Mr. Rao explained that Bankruptcy Rule 9010(c) provides that no power of attorney is needed to file a proof of claim. **The Advisory Committee approved the suggestion.** It concluded that publication was not necessary because the change would conform the form to the rule, and recommended that the change go into effect December 1, 2012 along with the previously approved change to line 7 (described at Agenda Item 23-C). The Subcommittee suggested that no immediate action be taken to make corresponding changes in the signature blocks of Official Forms 10S1 and 10S2, due to the possibility that these forms might be altered as a result of the mini-conference on mortgage forms.

6. Report by the Chapter 13 Form Plan Drafting Group on a national form chapter 13 plan and related rule amendments.

Mr. Rao gave the report. He said that over the past year, the Chapter 13 Form Plan Drafting Group has been exploring the adoption of an official form plan for chapter 13. An official form would have several benefits. First, it would make the practice of plan confirmation more uniform. Many districts require the use of local model plans containing distinctive features. These differences impose substantial costs on creditors with regional or national businesses and on software vendors, whose products must accommodate all of the local variations. A national form would also allow for earlier resolution of differences in interpretation. Finally, a national form could provide a specific location within the form for any variances from its standard provisions. This would aid bankruptcy judges in independently reviewing chapter 13 plans for conformity with applicable law, consistent with the Supreme Court's direction in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367, 1381 n.14 (2010).

The Working Group quickly realized that because many procedures differ from one district or even one judge to the next, there would be a need for rule amendments in addition to a national form plan. Mr. Rao said that the Working Group had not yet finished its work, but that it anticipated changes to Rules 3002, 3012, 3015, 4003, 7001, and 9009. Mr. Rao said a proposed official chapter 13 plan and the related rule amendments would likely be ready for consideration by the Advisory Committee this fall or next spring with a prospect for publication in the summer of 2013.

7. Report by the Subcommittee on Forms.
  - (A) Report on the status of the Forms Modernization Project and recommendation concerning publication of proposed new individual financial forms developed by the project.

Judge Perris said that the Forms Modernization Project (FMP) had largely completed drafting revised individual debtor forms, and has scheduled the first drafting session for the non-individual forms for April 2012. She said that in preparing for the non-individual drafting session, the FMP developed the following guiding principles after soliciting feedback from trustees, debtor and creditor attorneys, and claims agents:

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

Judge Perris said that the look and feel of the new non-individual forms would likely be quite different from the individual forms. There will be more open-ended questions, and the design of the questions will be more understandable than the current forms to accountants and others who are involved in filing non-individual cases.

Judge Perris reminded the Advisory Committee that at its fall 2011 meeting it recommended a subset of the new individual forms for publication and comment this summer. She reiterated the reasons for this decision. Although the design of the new forms should lead unsophisticated debtors to provide better information because the questions are more understandable, the same design choices necessarily make the new forms longer and harder for end users to review manually. Once NextGen becomes fully operational, however, it will capture and store all the information the debtor enters on the form, and end users will be able to develop customized reports that will make review faster. So, Judge Perris explained, acceptance of the new individual forms would depend in part on whether NextGen is able to capture and store the form data fields when the new forms go into effect.

Judge Perris said that although the first release of NextGen could occur in late 2013, or early 2014, it was not yet certain whether that release would be able to collect and store all form

data, so an incremental approach still made sense. She said the Subcommittee recommended that the fee forms (B3A and B3B), income and expense forms (Schedules I and J), and the means-test forms (B22A-1, B22A-2, B22B, B22C-1 and B22C-2) be published for comment this summer. These particular forms, she said, were not much longer than the form versions they would replace and would therefore be usable by judges, clerks and attorneys even if the data report capability was not available on the projected effective date of December 1, 2013. And publishing at least some of the forms now would allow for broader feedback than the prepublication feedback the FMP has received so far.

John Rao said he was concerned that because the forms were substantially different than the current versions, the bar would need extensive training to become familiar with them, and that such training would need to be repeated for each incremental release of forms. Other members acknowledged that possibility, but continued to support this incremental first step because the feedback might expose concerns in the FMP approach that could be addressed early on and minimize overall disruption of transitioning to new forms.

**After further discussion, the Advisory Committee recommended publishing for comment Forms B3A, B3B, B6I, B6J, B22A-1, B22A-2, B22B, B22C-1 and B22C-2, along with the accompanying instructions and committee notes, as set out in the agenda materials.** Judge Perris explained that form instructions are generally drafted by Administrative Office staff and, although they are reviewed by the Forms Subcommittee, are not typically included in a publication package or submitted to the Judicial Conference for approval. In this case, however, she said the Subcommittee recommended including the instructions in the publication package because they will provide valuable context for reviewers. She said that she anticipated that after the comment period ends, the Subcommittee and Advisory Committee would consider any necessary revisions and would submit for final approval only the proposed forms and committee notes. **After the meeting, the Advisory Committee approved by email vote additional changes to B22C-1 to correct a drafting error in lines 17 and 21 that was inconsistent with the current version of B22C. It also approved an amended B22 Committee Note that reflected the FMP formatting changes as well other substantive changes approved by the Advisory Committee, discussed below.**

- (B) Recommendations by the Subcommittees on Consumer Issues and Forms on the comments on the published amendments to Official Form 22C reflecting the Supreme Court's decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), and on revising Official Forms 22A and 22C to reflect the IRS allocation of internet services in National & Local Standards.

The Chair said that there were two comments on the proposed *Lanning* amendment to Official Form 22C that would require the debtor to report expected changes in income or expenses for the one-year period after filing the bankruptcy. Attorney Peter Lively argued that the amendment was inconsistent with a Ninth Circuit opinion on the issue of whether there is an

applicable commitment period when projected disposable income is zero or a negative number. Henry J. Sommer, writing on behalf of the National Association of Consumer Bankruptcy Attorneys, stated that the proposed amendment is unnecessary and confusing because changes in income and expenses in the year after filing are already required to be reported on Schedules I and J and can be addressed by motions to modify a confirmed Chapter 13 plan.

The Joint Subcommittee concluded that neither comment warranted reconsidering the proposed amendment to Form 22C. With respect to Mr. Lively's comment, the Joint Subcommittee found that requiring information about changes in income and expenses does not prevent the debtor from arguing that there is no applicable commitment period if there is no projected disposable income. In this respect, the Chair explained, the proposed revised form continues to apply the rule that the applicable commitment period is determined by the debtor's current monthly income under 11 U.S.C. § 1325(b)(4), rather than by the debtor's projected disposable income, determined under 11 U.S.C. § 1325(b)(2).

The Subcommittee was also unpersuaded by Mr. Sommer's comments. Schedules I and J report different income and expenses than those called for in calculating projected disposable income under Form 22C. And modification of a confirmed plan is not an appropriate method for dealing with changes of the kind involved in *Lanning*. Proper treatment of projected disposable income is a requirement for plan confirmation in the first instance.

The Chair said the Subcommittee also continued to recommend approval of the two amendments to Official Forms 22A and 22C addressing changes in the IRS collections standards, noting that no objections were made to the cell phone amendment that was published.

**After a short discussion, the Advisory Committee approved the amendments to Official Forms 22A and 22C as recommended by the Joint Subcommittee.** Because the forms are also part of the Forms Modernization publication package, however, and to avoid having the previously published amendments take effect in 2012 and then reformatted versions of the forms designed by the Forms Modernization Project take effect in 2013, the Advisory Committee incorporated the proposed amendments into the "modernized" versions to be published this summer.

8. Report by the Subcommittee on Business Issues.
  - (A) Recommendation on Suggestion 11-BK-I by Judge Erik P. Kimball to amend Rules 7008 and 7012; Suggestion 11-BK-K by Chief Judge Bruce W. Black and Judges A. Benjamin Goldgar and Carol Doyle to amend Rules 7008, 9027, and 9033, and to create new Rule 9008.1; and Suggestion 11-BK-L by Chief Judge Arthur J. Gonzalez to amend the general order referring bankruptcy cases and matters from the district court to the bankruptcy court, all in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011).



Judge Wizmur said that each of the suggestions provided slightly different proposed solutions to the Supreme Court's *Stern* decision. Before *Stern*, a proceeding was treated by the Bankruptcy Rules as either core or non-core and, if core, the bankruptcy judge was empowered to hear and finally determine it. After *Stern*, courts have confronted the argument that some proceedings may be core – as provided by 28 U.S.C. § 157(b) – and nevertheless be beyond a bankruptcy judge's constitutional power to enter final judgment. The purpose of the suggestions is to prevent a party from alleging (or agreeing) that a proceeding is "core" as a statutory matter, and then later asserting that it is not "core" as a constitutional matter. Each of the suggestions attempts to address the problem by altering portions of the Bankruptcy Rules that rely on the core/non-core distinction.

The Subcommittee agreed that the rules currently add to the confusion created by *Stern* because they rely on the core/non-core distinction. It therefore supported amending four rules -- 7008, 7012, 9027 and 9033 -- to remove references to core or non-core proceedings and require only a statement as to whether the parties consent to final judgment by a bankruptcy judge. The proposed changes, set out in the Addendum at Tab A8, would leave to the bankruptcy judge the determination of whether the judge has authority to enter a final judgment in a particular matter. The recommended amendments would also require that the bankruptcy court issue proposed findings of facts and conclusions of law in matters where a final judgment is not appropriate.

Judge Wizmur said that in one respect the Subcommittee's proposals may go too because they *require* the bankruptcy judge to make proposed findings if consent to a final judgment is not given. Mr. Rao added that in situations where there is consent, there is a need for some sort of mechanism requiring the judge to announce whether a final order would be entered or just findings and conclusions. Other members agreed with Judge Wizmur that that to the extent possible, any rule amendments should simply remove existing ambiguities raised by making a core/non-core distinction, and leave to the bankruptcy judge the determination of whether or not it is appropriate in a particular matter to enter a final order, issue proposed findings of fact and conclusions of law, or take some other action.

**After further discussion, the Advisory Committee recommended publication of proposed amendments to Rules 7008, 7012, 9027 and 9033, as revised at the meeting (subject to review by the Style Subcommittee). The Advisory Committee also drafted and recommended publication of an amendment to Rule 7016 to create a new subdivision (b) providing that the bankruptcy court, on its own motion or that of a party, must determine whether it will enter final orders and judgment, issue proposed findings and conclusions, or take some other action in a proceeding. Final versions of the proposed amendments were approved by the Advisory Committee by email vote after the meeting.** The Advisory Committee's recommendation included a statement that the proposed amendments and new rule were not intended to address the question of whether party consent is sufficient to permit a bankruptcy judge to enter a final judgment if the judge did not otherwise have authority to do so.

- (B) Recommendation on Suggestion 11-BK-F by Judge Peter W. Bowie to amend Rules 7004(e), 7012, and 9006(f) to provide that the deadline for responding to a summons runs from the date of service rather than the date of issuance.

The Subcommittee agreed with the suggestion that the current deadline for response to a summons, based on issuance rather than service of the summons, may sometimes give the defendant less time in bankruptcy than in ordinary civil litigation, but the Subcommittee noted that the issuance date is arguably less subject to dispute than the service date, especially if service is by mail. Moreover, speedy resolution of disputes in bankruptcy is favored and supports a shorter response time than in non-bankruptcy civil litigation. The Subcommittee did favor, however, shortening the time a litigant can wait before serving the summons after issuance. It therefore recommended amending Rule 7004(e) to provide that the summons is valid for only 7 days after issuance rather than 14 days, as set forth at page 203-04 of the agenda materials. **The Advisory Committee unanimously accepted the Subcommittee's recommendation that the proposed amendment to Rule 7004(e) be published for comment in August. The Advisory Committee also approved a Committee Note documenting the change by email vote after the meeting.**

- (C) Recommendation to clarify Rule 1014(b) regarding notice of the hearing on a motion to determine where cases will proceed if petitions are filed in different districts by, against, or regarding the same debtor or related debtors.

The Reporter said that last fall, the Advisory Committee approved a proposed amendment to Rule 1014(b) addressing the procedure when petitions involving the same or related debtors are pending in different courts. The proposed amendment, recommended for publication in August, would provide that proceedings in subsequently filed cases are stayed only upon order of the court in which the first-filed petition is pending.

After the fall 2011 meeting, the Advisory Committee's style consultant raised the issue of who should give notice of a hearing on a Rule 1014(b) motion, and in considering the question, the Style Subcommittee questioned whether the list of recipients of the notice is sufficiently broad. Because the questions went beyond matters of style, the Chair referred them back to the Subcommittee.

Judge Wizmur said that the Business Subcommittee reconsidered the wording of the amendment to Rule 1014(b). With respect to who should give notice, the Subcommittee recommended no change because Rule 1014(b)'s reference to a "hearing on notice" is consistent with the wording of Rule 1014(a)(1) and (2), is a frequently used phrase throughout the rules, and can be given specific content by a court order.

With respect to who should receive notice, the Subcommittee recommended broadening the language as set forth in the agenda materials so that it is clear that parties in the second case should be given notice of the hearing. **The Advisory Committee agreed with the Business Subcommittee's analysis and approved Rule 1014(b) for publication as set forth in the agenda materials.**

- (D) Report on the impact on the Bankruptcy Rules of proposed amendments to Civil Rules 37 and 45, which were published in August 2011.

Judge Wizmur said that the Subcommittee noted possible problems with the changes to Rules 37 and 45 but concluded that on the whole the changes would be beneficial to bankruptcy courts and practitioners, just as they would in the district court context, and that, as described in the agenda materials, there would be unique impacts in bankruptcy proceedings only in rare circumstances. It therefore recommended no action at this time in response to the changes.

Mr. Wannamaker pointed out that once the changes to Rule 45 take effect, the Director's subpoena forms, which include language from that rule, will need to be updated.

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

- (A) Recommendation on publication of the proposed revision of the Part VIII rules.

The Reporter reminded the Advisory Committee that it previously approved for publication the first half of the bankruptcy appellate rules (8001 through 8012), other than 8001 and 8010. With respect to Rule 8001, the Advisory Committee had concerns about the definition of "transmit" and the presumption of electronic transmissions for *pro se* filers. She said the Standing Committee also had questions about the term "transmit" in Rule 8001, as well as concerns that using the term "appellate court" to refer to the district court and BAPs, but not the court of appeals, was confusing. With respect to Rule 8010, the Advisory Committee asked the Subcommittee to resolve issues about the procedure for preparing and filing a transcript when the court records testimony electronically without a court reporter present.

The Reporter said the Subcommittee considered the suggestions from the Advisory Committee and the Standing Committee, that it made revisions to Rule 8001 and 8010, and that it now recommends that the Advisory Committee ask the Standing Committee to publish for comment this August the full set of revised Part VIII rules included as Appendix B to the agenda materials. The Reporter reviewed each of the rules and described changes from current practice, noting that full details of the changes were set forth in the agenda materials beginning at page 85 of the Addendum.

*Rule 8001.* The Reporter said the definitions of "transmission" and "appellate court" were deleted. The rule now simply says that document must be sent electronically unless there is

an exception and refers to district court, BAP and court of appeals by name. Because of repeated references throughout the appellate rules to “district court or BAP,” the acronym BAP for bankruptcy appellate panel was retained. **The Advisory Committee approved Rule 8001 for publication.**

*Rule 8010.* The Subcommittee changed the draft after consulting with clerks of bankruptcy courts and others. The rule now provides that the court reporter would be required to file documents only in the bankruptcy court, and that all transcription duties would be carried out by court reporters and transcription services, not the clerk’s office. The rule also clarifies that the term “reporter” includes the person or service that the court designates to transcribe the electronic recording. **The Advisory Committee approved Rule 8010 as set forth in the agenda materials.**

*Rule 8009.* After discussing the changes to Rule 8010, Mr. Rao noted that a cross reference in Rule 8009(b)(1)(A) to “the reporter, *as defined in 8010(a)(1),*” should be repeated when the reference to “the reporter” is made in 8009(b)(2)(A). **The Advisory Committee approved Rule 8009 as set forth in the agenda materials with Mr. Rao’s suggested modification.**

*Rule 8013.* **Approved as set forth in the agenda materials.**

*Rule 8014.* **Approved as set forth in the agenda materials.**

*Rule 8015.* **Approved as set forth in the agenda materials – deleting the phrase, “if a cover is used it must be white” at line 115 on page 73 – and accepting several technical corrections suggested by members at the meeting.**

*Rule 8016.* **Approved as set forth in the agenda materials.**

*Rule 8017.* **Approved as set forth in the agenda materials.**

*Rule 8018.* **Approved as set forth in the agenda materials.**

*Rule 8019.* **Approved as set forth in the agenda materials.**

*Former Proposed Rule 8020.* The Reporter noted that in earlier drafts, proposed Rule 8020 carried forward the provisions of current Rule 8013. The Subcommittee previously determined that there was no need to instruct district courts and BAPs on the actions they may take (affirm, modify, reverse, or remand with instructions) in ruling on bankruptcy appeals. The Subcommittee now suggested that the remainder of the rule – prescribing the weight to be accorded the bankruptcy court’s findings of fact – can be deleted because it duplicates Rule 7052, and because FRAP does not contain a similar rule. **The Advisory Committee approved**

**deleting proposed Rule 8020 from the draft, but suggested that the report to the Standing Committee make clear that the deletion of a topic covered by current Rule 8013 is not intended to change existing law.**

*Rule 8020.* **Approved as set forth in the agenda materials.** The Reporter said she would revise Committee Note to indicate the rule is derived from current Rule 8020, as well as FRAP 38 and 46(c).

*Rule 8021.* **Approved as set forth in the agenda materials, removing the sentence in the committee note that says costs do not include attorney fees.**

*Rule 8022.* **Approved as set forth in the agenda materials.**

*Rule 8023.* **Approved as set forth in the agenda materials.**

*Rule 8024.* **Approved as set forth in the agenda materials.**

*Rule 8025.* **Approved as set forth in the agenda materials.**

*Rule 8026.* **Approved as set forth in the agenda materials, with the following changes: add language at the end of (b)(1) that FRCP 83 governs the procedure for local rulemaking, and changing “judge” to “court” at line 20.**

*Rule 8027.* **Approved as set forth in the agenda materials.**

*Rule 8007.* **The revision to subdivision (c) -- described at page 95 of the agenda materials -- approved as set forth in the agenda materials, and, at page 417, line 44, added “court of appeals.”**

The Reporter noted that all of the Part VIII rules would undergo final revisions by the Style Subcommittee prior to publication this summer.

- (B) Recommendation concerning Suggestion (11-BK-E) by retired Bankruptcy Judge A. Thomas Small and Professor Alan N. Resnick to allow litigants in an adversary proceeding to limit their appeal rights.

Judge Jordan said that the Subcommittee considered the suggestion, but, for reasons discussed in the agenda materials, concluded that no rule amendments are needed. Summarizing the memo in the agenda materials, he noted that litigants can already limit their appeal rights by contract, and some Subcommittee members were concerned that a bankruptcy judge aware of such a stipulation might treat the case differently. The Subcommittee was also concerned that any rule change that limited litigant access to an Article III court, even by consent, should not be

undertaken without fully considering whether it implicates the Supreme Court's *Stern v. Marshall* decision. No member objected to the Subcommittee's decision to take no further action.

- (C) Recommendation concerning Suggestion (11-BK-J) by the Judicial Conference's Committee on Court Administration and Case Management (CACM) for bankruptcy rule and form amendments intended to reduce the likelihood that the privacy of debtors' social security numbers will be breached.

The Reporter reviewed the CACM proposal to remove the requirement in Rule 2002(a)(1) that the full social security number (SSN) be included in the notice of meeting of creditors mailed or electronically sent to creditors. She said that the requirement in Rule 2002(a)(1) to send creditors the debtor's full social security number was added in 2003 in conjunction with a privacy amendment to Rule 1005 that limited the caption to the last four numbers of the debtor's SSN. As originally proposed, only Rule 1005 would have been amended and creditors would have received meeting of creditor notices with only the last four numbers of the debtor's SSN.

Private creditors, the credit reporting industry, United States trustees, and the Justice Department all expressed concern during the publication period leading up to the 2003 change that providing only the last four digits of social security numbers would create problems in identifying debtors. They said that this truncated information could lead to inadvertent violations of the automatic stay and discharge injunction. They also stated that it could limit the ability of creditors and trustees to determine whether a particular debtor had obtained bankruptcy relief previously and was engaged in a serial bankruptcy filing and that it could hamper law enforcement efforts to prosecute debtors for bankruptcy fraud and related crimes. As a result of the comments, the Rule 1005 amendment – truncating the caption – was joined with an amendment to Rule 1007(f) requiring the debtor to submit (but not file) the full SSN to the court, and an amendment to Rule 2002(a)(1) requiring that the notice of meeting of creditors sent to parties in interest contain the debtor's full SSN. Official Form 21 was adopted for the debtor's use in submitting the SSN to the court.

The Reporter explained that the AO conducted two studies and concluded that although internal judiciary users still needed the debtor's full SSN, its use among creditors was declining. The studies noted a greater reliance on SSNs by public creditors such as the IRS, and recommended that CACM approve distribution of the SSN to public (but not private) creditors by secure electronic means.

The studies also recounted a number of ways that the debtor's SSN has been inadvertently made public and suggested that amending Rule 2002(a)(1) – to include only the last four digits of the SSN on the meeting of creditors notice – would make inadvertent disclosure much less likely. The authors also suggested that a warning be added to Form

21 stating that the form should not be filed on the docket. CACM adopted the recommendations of the study authors.

The Reporter said that the Subcommittee recognized that the CACM suggestion rests on the balancing of competing concerns: on the one hand, the interest in protecting debtors against the inappropriate public disclosure of their SSNs, and, on the other, the legitimate need for creditors and other participants in the bankruptcy system for this information. The Subcommittee noted that, as long as debtors are still required to provide the court with their full SSNs, as they would be even if the suggestion is adopted, there remains a risk of erroneous disclosure, but that imposing greater restrictions on access to full SSNs would at least decrease the incidence of breaches of privacy.

In discussing the competing interests, the Subcommittee concluded that the AO studies show that there is still a need for access to debtors' SSNs among both public and private creditors and that it would be premature at this time to propose removal of the full SSN from the notice of the meeting of creditors. The Subcommittee also was not convinced that there is an appropriate basis for drawing a distinction between the degrees of access granted public and private creditors. It therefore recommended against amending Rule 2002(a)(1) to distribute only the last four digits of the SSN to private parties in interest. The Subcommittee agreed, however, that a warning should be placed on Form 21 to reduce the possibility that it would be inadvertently filed on the public docket.

Mr. Kohn stated his support for the Subcommittee's recommendation and reaffirmed that the IRS needs the full SSN to identify debtors. Mr. Kilpatrick also agreed with the recommendation, noting that many of his clients, including smaller creditors such as state credit unions, still needed the full SSN. Mr. Rao questioned whether a warning on Form 21 would have any effect. If the debtor is *pro se*, the clerk handles docketing, and if represented, the debtor's attorney would handle docketing. Both clerks and debtor attorneys handle the form on a routine basis and know not to file it. He did not object to a warning on Form 21, but suggested that a warning should also be added to the Form 9 notice of the meeting of creditors that is sent to parties in interest, because the AO studies indicated that those notices are sometimes attached to a creditor's proof of claim and wind up on the claims register, which is public. Judge Harris suggested a modification to the proposed warning on Form 21 that simply states that it should not be filed, (rather than *requiring* that it be "submitted"), because in his court the form generally is not used – the clerk or the debtor's attorney simply fills in a field in CM/ECF. **After further discussion, the Advisory Committee agreed with the Subcommittee and decided to take no action with respect to Rule 2002. After the meeting Advisory Committee approved adding warnings to Form 9 and 21 by email vote.** Because the warnings would simply conform to the existing policy not to file the debtor's SSN, the Advisory Committee recommended that the warnings go into effect December 1, 2012, without publication. The warning to Form 21 was added to the top of the form as follows:

Do not file this form as part of the public case file. This form must be submitted separately and must not be included in the court's public electronic records. Please consult local court procedures for submission requirements.

Each version of Form 9 would be revised to include the following warning on the front near the top of the form:

Creditors – Do not file this notice in connection with any proof of claim you submit to the court.

And the information about filing proofs of claims on the back of each version of Form 9 would include the following information:

Do not include this notice with any filing you make with the court.

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

Recommendation concerning Suggestion 10-BK-G by Geoffrey L. Berman for the adoption of national standards, in addition to local court rules and state law rules on professional responsibility, for practice in the bankruptcy court of any district.

Mr. Rao said that the Subcommittee discussed Mr. Berman's suggestion, but for the reasons detailed in the agenda materials recommended taking no action. The Subcommittee concluded that the court and the state bar association had sufficient power to discipline attorneys. Professor Coquillette supported the Subcommittee's recommendation, noting that the Standing Committee has considered a national bar three times over the years, but has not gone forward because of federal/state issues. No action was taken by the Committee.

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

Recommendation concerning the possibility of adopting a bankruptcy rule establishing standards for electronic signatures by parties other than attorneys.

The Reporter said that the Forms Modernization Project has raised the need for the Advisory Committee to consider rule changes that would allow for electronic signatures. The Subcommittee considered two initial questions: (1) whether and under what circumstances bankruptcy courts should accept for filing documents signed electronically without requiring the retention of a paper copy containing a "wet" or original signature; and (2) if retention of an original signature is required, who should maintain the paper document bearing the signature.

The Subcommittee reviewed current practices and suggested three alternatives. One is set out in a model local rule adopted by several bankruptcy courts, which requires retention of



original documents with wet signatures and imposes the duty of retention on the entity -- most commonly the debtor's attorney -- that files the document electronically. Another approach, used in at least two other bankruptcy courts, does not require retention of paper documents with original signatures. Instead, these courts require that, for any electronically-filed document signed by someone other than the filing attorney, the document be accompanied by a declaration of authenticity wet-signed by the non-attorney. That declaration is scanned and maintained, in electronic form, by the clerk's office. A third approach is taken by the Internal Revenue Service, pursuant to 26 U.S.C. § 6061(b)(2), which validates electronic signatures on tax returns. The IRS uses personal identification numbers as electronic signatures, with no requirement for any original wet-signed document.

Professor Coquillette said that the issue of electronic signature would affect other federal courts and that the Standing Committee would likely be interested, and that a joint advisory subcommittee might be appropriate. **Accordingly, the Advisory Committee deferred any action until the next meeting.** After the meeting, the Chair learned that although the issue will arise in the context of the procedures of other federal courts, it would be appropriate for electronic signatures to be addressed initially in the bankruptcy context. Accordingly, the Advisory Committee will continue to examine the issue with the goal of recommending an amendment to the bankruptcy rules that establishes a uniform procedure for electronic signatures.

12. Recommendations on published amendments to Rules 9006, 9013, and 9014, and Official Form 7.

Rules 9006, 9013, and 9014 were proposed to be amended to highlight the default deadlines for the service of motions and written responses. An amendment to Official Form 7 was proposed to make its definition of insider adhere more closely to the Code. The Chair reported that none of these recommendations received any negative comments. **Accordingly, a motion recommending final approval of the published amendments to Rules 9006, 9013, and 9014, and Official Form 7 passed without objection.**

#### Discussion Items

13. Suggestion 12-BK-A by Judge Michael J. Kaplan to amend Official Form 3B to exclude non-cash governmental assistance from the calculation of the debtor's income.

The Chair reviewed the suggestion and agreed with Judge Kaplan that non-cash governmental assistance, such as food stamps, was not to be included in calculating the income used to determine eligibility for a fee waiver under the Judicial Conference regulations. He noted that the Advisory Committee had already recommended publishing Official Form 3B as part of the first set of forms from the Forms Modernization Project and recommended an amendment to the form that would provide space for the debtor to state the amount of any such

income without adding it into the income calculation. **The Advisory Committee approved adding a new line to the FMP version of Form 3B to be published for comment in August. Final language was approved by email vote after the meeting.**

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

**Referred to the Consumer Subcommittee.**

15. Suggestion 12-BK-C by Judge Barry S. Schermer to amend Official Form 10 (Attachment A) to clarify the treatment of an escrow shortage.

**Referred to the Forms and Consumer Subcommittees for consideration at the mortgage forms mini-conference.**

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

**Referred to the Consumer Subcommittee.**

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

**Referred to the Consumer Subcommittee.**

18. Suggestion 11-BK-M by Attorney Jim Spencer to amend Rule 9027 to require that a notice of removal be filed with the bankruptcy clerk.

**Referred to the Business Subcommittee.**

19. Oral report on revision of Official Forms 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, and 9I to encourage creditors to obtain the proof of claim form from the federal rulemaking website, rather than the bankruptcy clerk's office.

Mr. Wannamaker explained that since the proof of claim form is no longer mailed to creditors in asset cases, the BNC was now amending the instructions on the back of Official Forms 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, and 9I to encourage creditors to obtain the proof of claim form from the federal rulemaking website, rather than the bankruptcy clerk's office. He suggested that it might make sense to update the official versions of the forms to reflect the BNC practice.

Mr. Myers said he wasn't sure there was a simple fix, however. He said that many courts were modifying the notices with links to their local court website instead of the national website, and in larger cases claims vendors provided unique instructions.

**The Chair referred the matter to the Forms Modernization Project to be taken up in the ordinary course.**

Information Items

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

Mr. Wannamaker updated the Advisory Committee on pending legislation. He said the temporary bankruptcy judgeship bill has passed the House of Representatives. If the legislation is enacted, the judgeships would be paid for through an increase in the chapter 11 filing fee.

21. Oral update on opinions interpreting section 521(i) of the Bankruptcy Code. *Added to the Agenda: Update on opinions interpreting section 109(h) of the Bankruptcy Code.*

The Reporter said that there have been no case law changes in opinions interpreting 11 U.S.C. § 521(i). The courts still find that automatic dismissal under that Code provision is not “automatic” when used by a debtor to avoid bankruptcy administration or denial of discharge. She said it was unlikely that there would be a sea change in the case law that would form a basis for a rule on automatic dismissals, and she did not think further monitoring of the case law was needed. **The Advisory Committee agreed that further reports on the 11 U.S.C. § 521(i) case law is unnecessary.**

The Reporter added to the agenda an oral report on case law interpreting the recent technical amendments to 11 U.S.C. § 109(h). She said that the amendment seemed to be *intended* to allow the debtor to receive a credit counseling briefing on the petition date, so long as the briefing was completed before the petition was actually filed. Prior to the amendment, a literal reading of section 109(h) seemed to require the briefing to be received by the calendar day before the petition was filed. The problem with the technical amendment, she said, was that a literal reading now seems to allow the briefing to be received *after* the petition is filed, so long as it is received on the same calendar day.

The Reporter said that the only case to date interpreting the new language in § 109(h) held that date of filing means *moment* of filing and that the credit counseling briefing must be received before the moment of filing. This interpretation is consistent with the official form, but if case law were to change, there might be a need to update the official form. **The Chair asked the Reporter to monitor section 109(h) case law and report back at the fall meeting.**

22. New procedures for the Standing Committee and its advisory committees approved by the Judicial Conference at its September 2011 meeting.

The Chair reviewed new Judicial Conference procedures stating that correspondence with the public about the rules and forms out for publication are to be posted on the public website. He said he did not believe that an individual member's discussions with a member of the public about a proposed rule would need to be published *unless* the member was acting on behalf of the Advisory Committee, but asked members to be cautious about whether they might be perceived as representing the Advisory Committee on controversial issues.

23. *Bull Pen.*

- A. Proposed new Rule 8007.1 and the proposed amendment to Rule 9024 (indicative rulings), approved at the September 2008 meeting. **Deleted (included in the Part VIII rules to be published in August).**
- B. Amendment to Official Form 23 to implement the proposed amendment to Rule 1007(b)(7), which would authorize financial management course providers to file notification of the debtor's completion of the course, approved at September 2010 meeting. **Remain in the bullpen** (see Agenda Item 5-B).
- C. Amendment to Box 7 on Official Form 10 to add a reminder to attach the new mortgage attachment form, Official Form 10 (Attachment A), and the statement concerning open-end or revolving consumer credit agreements required by proposed Rule 3001(c)(3)(A), approved at April 2011 meeting. **Change to Official Form 10 to go into effect December 1, 2012** (see Agenda Item 5-D).

24. Rules Docket.

Mr. Wannamaker asked members to email him with any comments or changes.

25. Future meetings.

The Chair announced that the fall 2012 meeting would be held September 11 - 12, 2012<sup>1</sup>, at the Hotel Monaco in Portland, Oregon. He said that locations being considered for the spring 2013 meeting were New York City; Charleston, South Carolina; and Fort Lauderdale, Florida.

26. New business.

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<sup>1</sup> After the meeting, the dates of the Portland Advisory Committee meeting were changed to September 20 – 21, 2012.

The Chair said he had one new item. In honor of Mark A. Redmiles, former liaison to the Committee from the EOUST, he asked for approval of the following resolution:

## Resolution of the Advisory Committee on Bankruptcy Rules

*Whereas*, Mark A. Redmiles, as a representative of the Executive Office for United States Trustees, began serving as a liaison from that office to the Advisory Committee on Bankruptcy Rules on May 6, 2005;

*Whereas*, since that time, Mark A. Redmiles devoted countless hours in developing and amending the forms, familiarly known as the “Means Test Forms,” for establishing a presumption of abuse under Section 707(b)(2) of the Bankruptcy Code and for determining disposable income under Section 1325(b) of the Code;

*Whereas*, Mark A. Redmiles has been an unofficial ambassador of the Advisory Committee to the Internal Revenue Service, creating an effective interchange between the Service and the Committee on matters in which the Service’s Collection Financial Standards affect the application of Sections 707(b) and 1325(b);

*Whereas*, Mark A. Redmiles has been an effective member of several subcommittees of the Advisory Committee, including Subcommittees on Business Issues; Consumer Issues; Attorney Conduct and Health Care; and Privacy, Public Access, and Appeals;

*Whereas*, Mark A. Redmiles has been an effective member of the special working groups of the Advisory Committee dealing with forms modernization and a form plan for Chapter 13 cases;

*Whereas*, in all of his work with the Advisory Committee, Mark A. Redmiles has exhibited timeliness, dedication, open-mindedness, and friendship, while conforming to the highest ethical standards of the legal profession; and

*Whereas*, Mark A. Redmiles has now been assigned to other positions in the Executive Office for United States Trustees that will largely end his work with the Advisory Committee;

*Now, therefore*, be it resolved that the Advisory Committee on Bankruptcy Rules extends to Mark A. Redmiles both its deep appreciation for all that he has done on behalf of the Committee and its best wishes for success in his new undertakings.

**The resolution was unanimously approved.**

27. Adjourn.

Draft Minutes, Bankruptcy Rules Committee, Spring 2012

Respectfully submitted,

Scott Myers