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

JOHN D. BATES
CHAIR

CHAIRS OF ADVISORY COMMITTEES

JAY S. BYBEE
APPELLATE RULES

DENNIS R. DOW
BANKRUPTCY RULES

ROBERT M. DOW, JR.
CIVIL RULES

RAYMOND M. KETHLEDGE
CRIMINAL RULES

PATRICK J. SCHILTZ
EVIDENCE RULES

MEMORANDUM

TO: Hon. John D. Bates, Chair
Committee on Rules of Practice and Procedure

FROM: Hon. Dennis R. Dow, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 10, 2022

I. Introduction

The Advisory Committee on Bankruptcy Rules met by videoconference on March 31, 2022. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee gave its final approval to rule and form amendments that were published for comment last August. They consist of (1) new Rule 9038 (Bankruptcy Rules Emergency); (2) amendments to Parts III, IV, V, and VI of the Bankruptcy Rules that are proposed as part of the rules restyling project; (3) amendments to Rule 3011 (Unclaimed Funds in Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, and Chapter 13 Individual's Debt Adjustment Cases); (4) amendments to Rule 8003 (Appeal as of Right – How Taken; Docketing the Appeal); (5) amendments to Official Form 101 (Voluntary Petition for Individuals Filing for Bankruptcy); (6) amendments to Official Forms 309E1 and

309E2 (Notice of Chapter 11 Bankruptcy Case); and (7) amendments to Official Form 417A (Notice of Appeal and Statement of Election). The Advisory Committee also voted to seek publication for comment of (1) amendments to Parts VII, VIII, and IX of the Bankruptcy Rules—the final installment of the restyling project; (2) amendments to Rule 1007(b)(7) (Schedules, Statements, and Other Documents Required) and conforming amendments to six other rules; (3) a new Rule 8023.1 (Substitution of Parties); and (4) amendments to Official Form 410A (Mortgage Proof of Claim Attachment).

Part II of this report presents those action items, other than Rule 9038. A discussion of Rule 9038, which is proposed for final approval, is included elsewhere in the agenda book, along with the other emergency rules and a memorandum from Professors Capra and Struve. Part II also includes a request for final approval without publication of an amendment to Rule 9006(a)(6)(A) to add Juneteenth as a legal holiday. The Advisory Committee approved that amendment at its fall 2021 meeting.

Part II is organized as follows:

A. Items for Final Approval

(1) Rules and forms published for comment in August 2021—

- Restyled Parts III, IV, V, and VI;
- Rule 3011;
- Rule 8003;
- Official Form 101;
- Official Forms 309E1 and 309E2; and
- Official Form 417A.

(2) An amendment to Rule 9006(a)(6)(A) approved by the Advisory Committee without publication.

B. Items for Publication

- Restyled Parts VII, VIII, and IX;
- Rule 1007(b)(7) and conforming amendments to Rules 1007(c)(4), 4004(c)(1)(H), 4004(c)(4), 5009(b), 9006(b)(3) and 9006(c)(2);
- Rule 8023.1; and
- Official Form 410A.

Part III of this report presents as a possible additional action item amendments that the Advisory Committee approved to Official Forms 101 and 201 after its spring meeting pursuant to its delegated authority to make conforming changes to official forms, subject to later approval by the Standing Committee and notice to the Judicial Conference. These amendments would be necessitated by changes made to the Bankruptcy Code by the Bankruptcy Threshold Adjustment and Technical Correction Act (the "BTATC Act"), if enacted. The bill passed the Senate by

unanimous consent on April 7, 2022, and it is expected to soon pass the House. If Congress passes the BTATC Act before the Standing Committee's June 7 meeting, the Advisory Committee will seek the Standing Committee's final approval of these amendments.

Part IV of the report presents three information items. The first concerns the Advisory Committee's decision to take no action on suggestion 20-BK-E from the Committee on Court Administration and Case Management ("CACM") for a rule amendment to establish minimum procedures for electronic signatures of debtors and others who are not registered users of CM/ECF. The second information item discusses the Advisory Committee's consideration of possible amendments to address the timing of post-judgment motions in bankruptcy proceedings initially heard in the district court and a proposed referral to the Appellate Rules Committee. The final information item reports on the work of the Consumer Subcommittee regarding the proposed amendments to Rule 3002.1 and the related new official forms that were published for comment in August 2021.

II. Action Items from the Fall and Spring Meetings

A. Items for Final Approval

(1) The Advisory Committee recommends that the Standing Committee approve the proposed rule and form amendments that were published for public comment in August 2021 and are discussed below. Bankruptcy Appendix A includes the rules and form that are in this group.

Action Item 1. Restyled Parts III, IV, V, and VI. Extensive comments were submitted on the restyled rules from the National Bankruptcy Conference, and comments were also submitted by several others. After discussion with the style consultants and consideration by the Restyling Subcommittee, the Advisory Committee incorporated some of those suggested changes into the revised rules and rejected others. Comments and changes since publication are noted on the restyled rules in Appendix A.

The Advisory Committee seeks final approval of these restyled rules, but suggests that the Standing Committee not submit the rules to the Judicial Conference until all remaining parts of the Bankruptcy Rules have been restyled, published, and given final approval, so that all restyled rules can go into effect at the same time.

Action Item 2. Rule 3011 (Unclaimed Funds in Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, and Chapter 13 Individual's Debt Adjustment Cases). The proposed amendment, which was suggested by the Committee on the Administration of the Bankruptcy System, redesignates the existing text of Rule 3011 as subdivision (a) and adds a new subdivision (b) that requires the clerk of court to provide searchable access on the court's website to data about funds deposited pursuant to § 347 of the Bankruptcy Code (Unclaimed Property). There was one comment on the proposed amendment, and the language of subdivision (b) was restyled and modified to reflect the comment.

Action Item 3. Rule 8003 (Appeal as of Right – How Taken; Docketing the Appeal). Amendments to Rule 8003 were proposed to conform to amendments recently made to FRAP 3, which clarified that the designation of a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment or appealable order or decree.

Rule 8003(a)(3)(B) is amended to avoid the misconception that it is necessary or appropriate to identify each order of the bankruptcy court that the appellant may wish to challenge on appeal. It merely requires the attachment of "the judgment—or the appealable order or decree—from which the appeal is taken," and the phrase "or part thereof" is deleted. Subdivision (a)(4) now calls attention to the merger principle without attempting to codify the principle. It states in part that the notice of appeal "encompasses all orders that, for purposes of appeal, merge into the identified judgment or appealable order or decree." Subdivision (a)(5) is added to make clear that the notice of appeal encompasses the final judgment if the notice identifies either an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties or a post-judgment order described in Rule 8002(b)(1). Subdivision (a)(6) is added to enable deliberate limitations of the notice of appeal. Subdivision (a)(7) is added to provide that an appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into the judgment, order, or decree from which the appeal is taken.

No comments were submitted on the proposed amendments, and the Advisory Committee give its final approval to the rule as published.

Action Item 4. Official Form 101 (Voluntary Petition for Individuals Filing for Bankruptcy). The proposed amendment to Official Form 101 eliminates the portion of line 4 that asks for any business names the debtor has used in the last 8 years. Instead the form asks for additional similar information in Question 2, which is consistent with the treatment of that information in Official Forms 105, 201, and 205. There is also new language in the margin of Official Form 101, Part 1, Question 2, directing the debtor not to insert the names of LLCs, corporations, or partnerships that are not filing for bankruptcy. There was one comment on the proposed amendment, but no changes were made after publication.[1]

Action Item 5. Official Forms 309E1 (Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors)) and 309E2 (Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors under Subchapter V)). The amendments modify the language in line 7 of Official Form 309E1 (line 8 in Official Form 309E2) to clarify the deadline for objecting to discharge, as opposed to the deadline for seeking to have a particular debt excepted from discharge. The amendments also change the line that says "the court will send you notice of that date later" to add the words "or its designee" after the words "the court" because often the court

[1] There are two versions of Official Form 101 included for this Action Item 4, labeled Version 1 and Version 2. Both versions include the change described in Action Item 4. Version 2 also includes the changes the Advisory Committee approved after its March meeting on account of the Bankruptcy Threshold Adjustment and Technical Correction Act, discussed at Action Item 12. Version 2 will be recommended only if Congress passes the BTATC Act prior to the Standing Committee's June 7 meeting.

itself does not send this notice. There were no comments on the proposed amendments. After publication a comma was inserted in line 7 of Form 309E1 and line 8 of Form 309E2 in two places, one after the words "§ 1141(d)(3)" in the first bullet and one after "or (6)" in the second bullet.

Action Item 6. Official Form 417A (Notice of Appeal and Statement of Election). Amendments to Official Form 417A were proposed to conform to the amendments proposed for Rule 8003, which are discussed at Action Item 3. The new wording in parts 2 and 3 of the form is intended to remind appellants that appeals as of right from orders and decrees are limited to those that are "appealable"—that is, either deemed final or issued under § 1121(d). It also seeks to avoid the misconception that it is necessary or appropriate to identify each order of the bankruptcy court that the appellant may wish to challenge on appeal.

No comments were submitted on the proposed amendments to the form, and the Advisory Committee give its final approval to Official Form 417A as published, with a proposed effective date of December 1, 2023**.**

(2) Action Item 7. The Advisory Committee recommends that the Standing Committee approve without publication an amendment to Rule 9006(a)(6)(A), which is included in Bankruptcy Appendix A. In response to the enactment of the Juneteenth National Independence Day Act, P.L. 117-17 (2021), the Advisory Committee approved an amendment to Rule 9006(a)(6)(A) to insert the words "Juneteenth National Independence Day" immediately following the words "Memorial Day."

B. Items for Publication

The Advisory Committee recommends that the following rule and form amendments be published for public comment in August 2022. The rules and forms in this group appear in Bankruptcy Appendix B.

Action Item 8. Restyled Parts VII, VIII, and IX. The Advisory Committee seeks publication of the restyled versions of the rules in Parts VII, VIII, and IX of the Federal Rules of Bankruptcy Procedure, which reflect many hours of work by the style consultants, the reporters, and the Restyling Subcommittee. This is the final group of restyled rules for publication.

Action Item 9. Rule 1007(b)(7) (Lists, Schedules, Statements, and Other Documents; Time Limits) and conforming amendments to Rules 1007(c)(4), 4004(c)(1)(H), 4004(c)(4), 5009(b), 9006(b)(3), and 9006(c)(2). The amendments to Rule 1007(b)(7) would eliminate the requirement that the debtor file a statement on Official Form 423 and make filing of the certificate of debtor education provided by the approved provider of the course the exclusive means of establishing satisfaction of the requirement for discharge that a debtor has taken a postpetition course in personal financial management. The amendments would also eliminate the requirement that a debtor who has been excused from taking such a course file a form so stating. The six other rules that referred to a "statement" required by Rule 1007(b)(7) would also be amended to refer to a "certificate."

Action Item 10. Rule 8023.1 (Substitution of Parties). The Advisory Committee seeks publication of a new rule on Substitution of Parties, modeled on Fed. R. App. P. 43. Neither FRAP 43 nor Fed. R. Civ. P. 25 is applicable to parties in bankruptcy appeals to the district court or bankruptcy appellate panel, and this new rule is intended to fill that gap.

Action Item 11. Official Form 410A (Mortgage Proof of Claim Attachment). The proposed amendments are to Part 3 (Arrearage as of Date of the Petition) of Official Form 410A and would replace the first line (which currently asks for "Principal & Interest") with two lines, one for "Principal" and one for "Interest." The amendments put the burden on the claim holder to identify the elements of its claim.

III. Post-meeting Action Item[2]

The Advisory Committee seeks the Standing Committee's retroactive approval of the following form amendments, with notice of the amendments to be given to the Judicial Conference.

Action Item 12. Amendments to Official Forms 101 (Voluntary Petition for Individuals Filing for Bankruptcy) and 201 (Voluntary Petition for Non-Individuals Filing for Bankruptcy) in response to the Bankruptcy Threshold Adjustment and Technical Correction Act. The 2020 CARES Act modified the definition of "debtor" in § 1182(1) of the Bankruptcy Code for determining eligibility to proceed under subchapter V of chapter 11. The change increased the debt limit for eligibility from $2,725,625 to $7,500,000. This change necessitated amending the petition forms. Line 13 of Form 101 was modified to ask not only whether the individual debtor is a small business debtor, but also whether he or she is a debtor as defined in § 1182(1) and whether he or she wishes to proceed under subchapter V. Line 8 of Form 201 was modified to add a box for the debtor to check if its aggregate debts are less than $7,500,000 and it elects subchapter V treatment. The language permitting such an election with respect to "small business debtors" was deleted. Additionally, because federal rules of procedure cannot be quickly approved under the Rules Enabling Act, an interim version of Rule 1020, with amendments conforming to the CARES Act, was posted on uscourts.gov to be adopted by courts as a local rule.

Under the CARES Act, the definition of "debtor" in § 1182(1) was to revert to its prior version one year after the effective date of the CARES Act, that is, on March 27, 2021. Congress then acted in March 2021 to extend the sunset date in the CARES Act to March 27, 2022. This year Congress took no action prior to March 27 to further extend the sunset date for the definition in § 1182(1), so the prior version of the Code provision went back into effect. Accordingly, the pre-CARES Act version of Forms 101 and 201 were reinstated and Interim Rule 1020 reverted to its former construction.

The Bankruptcy Threshold Adjustment and Technical Correction Act, if enacted, would reinstate the CARES Act definition of debtor in § 1182(1)—with its $7,500,000 subchapter V debt limit—for two years from the date of enactment. It is retroactive to March 27, 2020. By email vote,

[2] Action Item 12 will go forward only if Congress has passed the BTATC Act on or before the Standing Committee's June 7 meeting.

the Advisory Committee approved conforming amendments to Official Forms 101 and 201 pursuant to its delegated authority to make technical and conforming official forms changes subject to final approval by the Standing Committee. If the BTATC Act goes into effect, the Advisory Committee recommends final approval of both forms, and it also recommends that the Administrative Office repost the necessary conforming changes to the interim version of Rule 1020 on uscourts.gov, so it can be readopted by courts as a local rule.

IV. Information Items

Information Item 1. Electronic signatures. The Advisory Committee has been considering a suggestion by CACM (20-BK-E) regarding the use of electronic signatures in bankruptcy cases by individuals who do not have a CM/ECF account. At the fall 2021 meeting, the Technology Subcommittee presented a draft of amendments to Rule 5005(a)(2)(C) for discussion. That discussion raised several questions and concerns. Among the issues raised were how the proposed rule would apply to documents, such as stipulations, that are filed by one attorney but bear the signature of other attorneys; how it would apply if a CM/ECF account includes several subaccounts; and whether there is really a perception among attorneys that the retention of wet signatures presents a problem that needs solving.

Following up on questions raised at the fall meeting about what problem the Committee was being asked to solve, the reporter spoke with the bankruptcy judge whose inquiry to CACM led to CACM's suggestion to the Advisory Committee. The judge said that he is on a local court committee with members of the bar, and he raised with that group the issue about electronic signatures because he thought the courts were out of step with modern commerce by still requiring the retention of wet signatures, rather than using some kind of electronic signature product, like DocuSign. He said that there was mild concern among the lawyers about having to retain wet signatures, but a stronger interest in facilitating the electronic filing of documents such as stipulations, where the filing attorney files a document with other attorneys' signatures.

The judge indicated that the California state courts have a rule about electronic signatures that allows them in place of the retention of wet signatures under certain circumstances. The judge said that he is in the process of drafting a possible local rule for his court along the same lines.

At the spring Advisory Committee meeting, the Technology Subcommittee asked whether a problem exists under current practices that needs a national rule solution. It suggested that the answer is no. Attorneys can file documents in the bankruptcy courts electronically, and the use of their CM/ECF account provides the basis for accepting their electronic signatures as valid. If they electronically file documents that their client or another individual has signed, they generally must retain the original document with the wet signature. To date, the Advisory Committee has not received a suggestion from any bankruptcy attorney that the current procedures are causing problems.

The judge's inquiry to CACM about the use of electronic signatures seems to have been based more on the desire to bring bankruptcy courts into the modern age of e-signing rather than on concerns he heard from attorneys about having to retain wet signatures. The suggestion from

CACM does note that in 2013 it had suggested that "courts' local rules varied in their requirements to retain original paper documents bearing 'wet' signatures, and that these varying practices posed problems for attorneys that file in multiple districts." Comments in response to the Advisory Committee's earlier electronic-signature proposal, however, did not produce comments bearing out that concern. CACM's current suggestion is based on concern that the absence of a provision in Rule 5005 regarding the electronic signatures of individuals without CM/ECF accounts may make courts "hesitant to make such a change without clarification in the rules that use of electronic signature products is sufficient for evidentiary purposes."

The Subcommittee concluded that current Rule 5005 does not address the issue of the use of electronic signatures by individuals who are not registered users of CM/ECF and that it therefore does not preclude local rulemaking on the subject. The Bankruptcy Court for the District of Nebraska already has such a rule (L.B.R. 9011-1), and other courts, such as Bankruptcy Court for the Central District of California, may adopt such rules in the future. The Subcommittee concluded that a period of experience under local rules allowing the use of e-signature products would help inform any later decision to promulgate a national rule. Electronic signature technology will also likely develop and improve in the interim.

The Advisory Committee agreed with the Subcommittee's recommendation and voted not to take further action on the suggestion.

Information Item 2. Timing of Post-Judgment Motions in Bankruptcy Proceedings Initially Heard in District Court. In response to a recent First Circuit decision, Professor Cathie Struve raised with the reporters an issue that involves the overlap of the bankruptcy, civil, and appellate rules. The issue is whether, in a bankruptcy proceeding heard and decided initially by a district court, the time for filing post-judgment motions of the type that toll the period for filing a notice of appeal should be 14 days, as in the bankruptcy court, or should be 28 days because of the longer time allowed for taking an appeal from the district court.

The situation in question is the following: A district court hears a bankruptcy adversary proceeding and enters a judgment. Twenty-eight days later, the losing party files a motion for reconsideration (or new trial or judgment as a matter of law). The court denies the motion. Thirty days after denial, the losing party files a notice of appeal. The question is whether the appeal is timely.

The First Circuit held no in *In re* Lac-Mégantic Train Derailment Litigation, 999 F.3d 72, 84 (2021). The court concluded that the Bankruptcy Rules applied in the district court and that under Rule 9023, the motion for reconsideration had to be filed within 14 days of the entry of judgment. Since the motion was untimely, it did not toll the time for filing the notice of appeal. Thus the appeal taken more than 30 days after entry of judgment was untimely, and the court of appeals lacked jurisdiction to hear it.

As Prof. Struve pointed out, this result raises questions about the wording of FRAP 4(a)(4)(A). It says that the listed post-judgment motions toll the time for filing a notice of appeal if "a party files in the district court any of [those] motions under the Federal Rules of Civil Procedure—and does so within the time allowed by those rules." The Civil Rules allow 28 days

for those motions. But if the rule is applied literally, it would allow motions that are untimely according to the applicable Bankruptcy Rules to toll the time for taking an appeal.

Until 2009 the time for filing post-judgment motions under the Civil and Bankruptcy Rules was the same—within 10 days after entry of judgment. Then in 2009, the time limit for such motions was changed to 14 days in Bankruptcy Rules 7052, 9015(c), and 9023 as a result of the time computation project that changed rules deadlines of less than 30 days to multiples of 7. The deadlines in Civil Rules 50, 52, and 59, however, were changed to 28 days at that time because, as explained by the committee notes, "Experience has proved that in many cases it is not possible to prepare a satisfactory post-judgment motion in 10 days, even under the former rule that excluded intermediate Saturdays, Sundays, and legal holidays." The reason for not similarly extending the parallel Bankruptcy Rules was explained as follows: The new Civil Rule "deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for amended or additional findings would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment." 2009 Committee Note to Rules 7052, 9015, and 9023.

In choosing not to propose the 28-day deadline for post-judgment motions under the Bankruptcy Rules, the Advisory Committee focused on the deadline for filing notices of appeal under Rule 8002(a). That deadline applies to appeals from the bankruptcy court to the district court or bankruptcy appellate panel, but not to appeals from a district court's exercise of jurisdiction under 28 U.S.C. § 1334. Appellate Rule 6(a) provides that the 30-day deadline of FRAP 4(a) applies in that situation, just as it does in appeals of civil cases from the district court to the court of appeals.

The Appeals Subcommittee considered several possible responses to the issue, including amending Bankruptcy Rules 7052, 9015(c), and 9023 to provide 28 days for the motions if the proceeding is heard by the district court; asking the Appellate Rules Committee to consider amending Rule 4(a)(4)(A) to acknowledge the different timing rules; and asking the Appellate Rules Committee to consider amending Rule 6(a) to do the same. The Subcommittee recommended doing the latter, and the Advisory Committee agreed.

An amendment to Rule 6(a) might read as follows:

Rule 6. Appeal in a Bankruptcy Case

(a) APPEAL FROM A JUDGMENT, ORDER, OR DECREE OF A DISTRICT COURT EXERCISING ORIGINAL JURISDICTION IN A BANKRUPTCY CASE. An appeal to a court of appeals from a final judgment, order, or decree of a district court exercising jurisdiction under 28 U.S.C. § 1334 is taken as any other civil appeal under these rules. The reference in Rule 4(a)(4)(A) to the time allowed by the Federal Rules of Civil Procedure must be read as a reference to the time allowed by the Federal Rules of Civil Procedure as shortened, for some types of motions, by the Federal Rules of Bankruptcy Procedure.

* * * * *

This solution has the advantage of requiring the amendment of only one rule—an appellate rule that is bankruptcy specific—and it does not introduce a new distinction in the Bankruptcy Rules between district court and bankruptcy court exercises of jurisdiction. This approach would also be consistent with the general desire for expedition in bankruptcy cases. Whether to propose an amendment to FRAP 6(a) and the wording of any such amendment would, of course, be left in the first instance to the Appellate Rules Advisory Committee.

Information Item 3. Rule 3002.1 (Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence) and Related Forms. Last August the Standing Committee published for comment proposed amendments to Rule 3002.1 and proposed forms to implement those amendments. Among other purposes, the amendments were designed to encourage a greater degree of compliance with the rule and to provide a new midcase assessment of the mortgage claim's status in order to give a chapter 13 debtor an opportunity to cure any postpetition defaults that may have occurred.

Twenty-seven comments were submitted on the proposed amendments. Some of the comments were lengthy and detailed; others briefly stated an opinion in support of or opposition to the amendments. All were well thought-out and worthy of careful consideration.

The Consumer Subcommittee held several meetings to discuss the comments and to consider what recommendation to make to the Advisory Committee in response to them. Because of the short time period between the final date for submitting comments and the spring meeting, however, the Subcommittee was not able to complete its consideration of the comments. It therefore did not recommend any action on Rule 3002.1 at the spring meeting. Instead, it provided the Advisory Committee with an overview of the comments and the major points they raised, reported on the Subcommittee's discussions and tentative decisions about changes to the published amendments that should be made, and sought the Advisory Committee's feedback to guide the Subcommittee's further deliberations.

The reactions to the published amendments were mixed. Broadly described, the comments fell into 3 categories: (1) comments opposing the amendments, or at least the midcase review, submitted by some chapter 13 trustees; (2) comments favoring the amendments, submitted by some consumer debtor attorneys; and (3) comments favoring the amendments but giving suggestions for improvement, submitted by trustees, debtors, judges, and an association of mortgage lenders. There were differences of opinion, however, within each category of commenters.

The comments included a letter from a group of 68 chapter 13 trustees who questioned whether there is a need for the amendments. They were particularly concerned about the midcase review because they said that it would impose an unnecessary burden on them and that the needed information about the home mortgages is already available. They and other trustees also contended that the new requirements for the end-of-case motion would not work well in a case in which the

debtor pays the mortgage directly, because the trustee lacks records about postpetition mortgage payments.

The comments from some debtors' attorneys, on the other hand, welcomed the requirement of a midcase review. They pointed out that mortgage servicers' records are often inconsistent with trustees' and debtors' records and that an earlier opportunity to reconcile them would be beneficial. Some also stated support for the adoption of a motion practice, rather than just a notice requirement, that would result in an enforceable order.

The National Conference of Bankruptcy Judges, while stating that it did not oppose the amendments, raised questions about the authority to promulgate several provisions. In particular, it questioned the requirement of annual notices of payment change for home equity lines of credit and the end-of-case procedures for obtaining an order determining the status of the mortgage. NCBJ also questioned whether the benefits of a midcase assessment and the revised end-of-case procedures were sufficient to outweigh the added burden on courts and parties imposed by the provisions.

The Subcommittee concluded that there is a need for some amendments to Rule 3002.1 and that there is authority to promulgate them. The Advisory Committee agreed. The Subcommittee is also sympathetic with the desire for simplification and the reduction of costs. It has begun to sketch out revisions to the published amendments in response to the comments, and it hopes to present a revised draft to the Advisory Committee at the fall meeting. The Forms Subcommittee will await decisions about Rule 3002.1 before considering any changes to the proposed implementing forms.