

**EXCERPT FROM THE
REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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

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

Rules Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rules 1004, 2004, 2014,¹ 2015, 4004, 9014, and 9027, new Rule 1004.1, and amendments to Official Forms 1 and 15 with a recommendation that they be approved and transmitted to the Judicial Conference. The amendments and new rule were circulated to the bench and bar for comment in August 2000. A public hearing was held in Washington, D.C. on January 26, 2001.

The proposed amendment to **Rule 1004 (Involuntary Petition Against a Partnership)** eliminates the provision implying that all general partners must consent to the filing of a voluntary petition by the partnership. The filing requirements are a matter of substantive law and outside the scope of the rules.

Proposed new **Rule 1004.1 (Petition for an Infant or Incompetent Person)** establishes procedures for an infant or an incompetent person to commence a case. It is based on the procedures contained in Civil Rule 17(c).

Rule 2004 (Examination) would be amended to compel a witness to attend an examination of an entity under procedures governing a subpoena in Civil Rule 45, whether the examination is conducted within or outside the district in which the case is pending. The

¹The Advisory Committee on Bankruptcy Rules withdrew proposed amendments to Rule 2014 for further consideration.

proposed amendments also make clear that an attorney authorized to practice either in the court in which the case is pending or in the court for the district in which the examination will be held may issue and sign the subpoena on behalf of the court for the district in which the examination will be held.

[Rule 2014 (Employment of a Professional Person) — Withdrawn]

Rule 2015 (Duty to Keep Records, Make Reports and Give Notice of Case) would be amended to clarify that the trustee or debtor in possession in a Chapter 11 case must report disbursements during the time that quarterly fees are required to be paid under 28 U.S.C. § 1930(a)(6).

The proposed amendment of **Rule 4004 (Grant or Denial of Discharge)** postpones the entry of discharge in a Chapter 7 case on the filing of a motion to dismiss under § 707 of the Bankruptcy Code.

Rule 9014 (Contested Matters) would be amended to apply the provisions of Rule 7009, governing pleading on special matters, and Rule 7017, governing real parties in interest, including infants and incompetent persons, to contested matters; permit service of papers—other than the initial motion—by electronic means; clarify that an evidentiary hearing must be held if a disputed, unresolved material issue of fact exists; and establish procedures notifying attorneys at an early date of a hearing at which witnesses are to appear.

Rule 9027 (Removal) would be amended to clarify the time limits for filing a notice of removal of a claim or cause of action filed after the commencement of a bankruptcy case, whether the bankruptcy case is pending, suspended, dismissed, or closed.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendments to Bankruptcy Rules 1004, 2004, [2014 — withdrawn], 2015, 4004,

9014, and 9027, and new Rule 1004.1 and transmit them to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

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